



Our Ref: 2015/388

15 February 2016

Ms Sophie Dunstone
Secretary
Senate Standing Committee on Legal and Constitutional Affairs
Parliament House
PO Box 6100
Canberra ACT 2600

Dear Ms Dunstone,

Inquiry into the Migration Amendment (Complementary Protection and Other Measures) Bill 2015

Thank you for the opportunity to appear at the Committee's hearing in relation to the above bill.

At the conclusion of that hearing, the Chair said:

I think Professor Triggs did offer lots of examples of things that we did not take up with her. If anyone can help me with better examples of occupation being an addition, I would be grateful.

This letter responds to that invitation. There are a number of countries in which the United Nations High Commissioner for Refugees (UNHCR) has documented a real risk of significant harm for people in particular occupations.

A question that arises for the Committee is whether a person should be required to change their occupation in an attempt to avoid such harm. At present, the proposed s 5LAA(5) of the bill (and s 5J(3) of the Migration Act) is not adequate to protect people from a requirement that they change their occupation.

Some particular examples based on prominent source countries for asylum seekers arriving in Australia are set out below.

Journalists

In ***Afghanistan***, journalists and media organisations who report on sensitive issues such as impunity, war crimes, corruption, drug trafficking, bribery allegations and other failings by government officials and powerful local figures have been arrested,

threatened and harassed. Journalists were reported to revert to self-censorship due to fears of reprisals. The perpetrators of violence against journalists frequently enjoy impunity, and journalists accused the Government of failing to protect them.¹

Similarly, there have been reports of harassment, arbitrary detention, threats and physical intimidation of journalists in **Sri Lanka**. UNHCR reports that journalists appear to be targeted as a result of the topics they cover in their reports, 'such as government accountability and the rule of law' and that 'most journalists are said to practise self-censorship'.²

In 2012, UNHCR reported that **Iraq** remained one of the most dangerous places worldwide for journalists with targeted killings of five journalists in 2011 and six journalists and three media support workers in 2010. Armed groups have repeatedly targeted media outlets and employees for their perceived "Western" or pro-American views, their affiliation with the Iraqi Government, or their sectarian or ethnic association. Others have been targeted for investigating controversial political or other sensitive issues, including corruption or activities of armed groups. There have been no arrests or convictions for attacks on the media. Every year for the four years to 2011, Iraq was ranked first in the Impunity Index of the Committee to Protect Journalists.³

In **Somalia**, journalists may also be targeted due to perceived political bias, with UNHCR reporting that 'even interviewing or making contact with one side in the conflict may be sufficient to create such a perception'.⁴

Other occupations

In **Afghanistan**, people who are associated with or perceived to be supporting the Afghan Government and the international community, including international military forces, are at risk of being targeted.⁵ The United Nations Assistance Mission in Afghanistan documented the deaths of 698 civilians and the wounding of 379 others in incidents of targeted killings or attempted targeted killings in 2012. Groups targeted included:

- Government officials and civil servants
- teachers, school guards and officials of the Department of Education
- health workers

¹ UNHCR, *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan* (2013), UN Doc HCR/EG/AFG/13/01, p 39. At <http://www.refworld.org/docid/51ffdca34.html>.

² UNHCR, *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Sri Lanka* (2012), UN Doc HCR/EG/LKA/12/04, pp 20 and 29. At <http://www.refworld.org/docid/50d1a08e2.html>.

³ UNHCR, *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Iraq* (2012), UN Doc HCR/EG/IRQ/12/03, p 21. At <http://www.refworld.org/docid/4fc77d522.html>.

⁴ UNHCR, *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Somalia* (2010), UN Doc HCR/EG/SOM/10/1, p 14. At <http://www.refworld.org/docid/4be3b9142.html>.

⁵ UNHCR, *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan* (2013), UN Doc HCR/EG/AFG/13/01, pp 31-38. At <http://www.refworld.org/docid/51ffdca34.html>.

- members of the Afghan National Police
- employees of international or Afghan humanitarian organisations (including UN agencies, international development agencies, and national and international non-government organisations)
- truck drivers, construction workers and individuals involved in mining projects and other development projects.

In particular, there have been widespread reports of the targeting of women in the public sphere, including female parliamentarians, provincial council members, civil servants, journalists, lawyers, teachers, human rights activists and women working for international organizations.⁶

In *Iraq*, UNHCR reports that hundreds of professors, teachers and academics have been killed since 2003 and may others have been kidnapped, arrested and threatened. At least 47 judges have been killed in Iraq since 2003. Health professionals 'have been killed, maimed and kidnapped in the thousands' since the fall of the former regime.⁷ Women have also been singled out for attacks, in particular if they have assumed a public role as politicians, government officials, rights activists or professionals.⁸

Yours sincerely,

Gillian Triggs
President

⁶ UNHCR, *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Afghanistan* (2013), UN Doc HCR/EG/AFG/13/01, p 37. At <http://www.refworld.org/docid/51ffdca34.html>.

⁷ UNHCR, *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Iraq* (2012), UN Doc HCR/EG/IRQ/12/03, p 23. At <http://www.refworld.org/docid/4fc77d522.html>.

⁸ UNHCR, *Eligibility Guidelines for Assessing the International Protection Needs of Asylum-Seekers from Iraq* (2012), UN Doc HCR/EG/IRQ/12/03, p 34. At <http://www.refworld.org/docid/4fc77d522.html>.