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Chair
Legal and Constitutional Affairs Legislation Committee
Parliament House
CANBERRA ACT 2600 By email: mailto:LegCon.Sen@aph.gov.au

Dear Chair and Committee Members,

Thank you for your invitation to provide a submission addressing the Migration Legislation Amendment (Regional Processing Cohort) Bill and the Migration Legislation Amendment (Visa Revalidation and Other Measures) Bill.

Civil Liberties Australia (CLA) does not support these Bills, which would place restrictions on the movement of refugees even if resettled to a country other than Australia. CLA believes, among other things, this contravenes the rights of refugees as outlined in the 1951 Convention on Refugees, to which Australia is a signatory. Article 34 of the Convention calls for contracting states to facilitate the assimilation and naturalisation of refugees. The Convention is predicated on the premise that a refugee cannot return to the country from which they fled because of well-founded fear of persecution and thus should be afforded the opportunity to avail themselves of the full citizenship rights of the country in which they have sought asylum or to where they have been resettled.

As many other have pointed out, refugees covered under this Bill would not be able to visit Australia at any time or for any reason, unless at the Minister's discretion. Some of the affected refugees have close relatives[i] in Australia (a reason for them seeking asylum in Australia in the first place) and could never see them again. Others would have legitimate reasons from business to tourism to wish to travel here in the future.

It is not clear how such a provision w/could impact on the people smugglers rather than on the refugees themselves.

CLA also notes the implicit threat that resettlement processing for the affected refugees will not commence until this Bill is ratified. This is a disappointing qualification to what is otherwise a welcome possibility to end the impasse that has left refugees in limbo for the past three years.

It is not the first time that such an implicit threat has been used to erode the rights of refugees. By 2012, in response to the ever increasing number of arrivals of asylum seekers by boat, off-shore processing in Manus and Nauru was restarted. At that time there were also around 28,000 asylum seekers who had arrived by boat residing in Australia. Prior to 2012, when processing was halted, those found to be refugees would be granted a permanent protection visa, which was a pathway to citizenship and benefits

such as family reunion. After this asylum seekers were put on temporary bridging visas that were valid for anything from 28 days to three years.

In 2014, the Government introduced a temporary protection visa category, that was opposed by Labor and the Greens. It was Motoring Enthusiast Party representative Ricky Muir whose vote ensured the relevant Bill was passed, and as he revealed later to Annabel Crabbe, he did it so that children would be released from detention centres.

Temporary Protection Visas are valid for three years and do not allow family reunification. In effect, the 28,000 plus persons found to be refugees (in an inordinately slow process that the Minister estimates could last a decade) are left in a limbo also with no prospect of assimilation or naturalisation.

CLA urges that the rights of refugees be respected and that there is an end to punitive measures towards them.

Yours truly,

Dr Kristine Klugman OAM
President

*14 November 2016*

[i] Indeed, there will likely be situations where a now-child with full rights to be an Australian citizen in future – whether directly or by re-migration from, say, the USA – would be barred from bringing his or her parents to Australia under family reunification provisions, or possibly even having them visit as tourists…without direct, individual, intervention by a government Minister. That would create more a grace-and favour migration regime than a fairness-based migration policy.

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