

**SUBMISSION REGARDING  
THE MIGRATION LEGISLATION AMENDMENT (FURTHER BORDER  
PROTECTIONS MEASURES) BILL, 2002**

This submission comes from the Missionary Franciscan Sisters. After some consideration of the Bill named above, we would like to draw to the attention of the Senate Legal and Constitutional References Committee some concerns we have about this Bill especially because it will impact on the way the Federal Government treats asylum seekers who come to Australia.

**Firstly** we do not see that the excision of the islands will achieve the object for border security. Any one desperate enough to flee a situation will endanger themselves and their families to enter Australia. Not to flee is more dangerous for them than the attempt to gain safety in Australia. Thus if the Bill is to stop persons entering Australia it will not succeed.

**Recommendation 1.** The proposed legislation be rejected because it will not provide the border security as desired by the government.

**Secondly**, with regard to the basic right of a person to enter a country for the purposes of claiming asylum we consider that if an asylum seeker must gain **the mainland of Australia** in order to claim the protection they desire, then this is a denial of their basic human rights. We adhere to the teachings of Pope John 22nd on that matter “Among a person’s personal rights we must include their right to enter a country in which they hope to be able to provide more fittingly for themselves and their dependents. It is therefore the duty of State officials to accept such immigrants and – so far as the good of their own community, rightly understood, permits – to further the aims of those who may wish to become members of a new society” (John XXII, Encyclical Letter on Establishing Peace in Truth, Charity and Liberty, *Pacem in Terris*, 11 April 1963, 106). We see the proposed amendment to the Bill as contrary to Catholic Social Teaching and indeed to any summary of human rights. For the Migration Act of 1958, which requires an asylum seeker to enter Australia’s migration zone in order to make a claim for asylum, bestows this right on those who enter the zone to claim asylum. This right is respected and identified as a basic human right. Therefore the proposed Bill is in direct opposition to a universally accepted basic human right, a right that Australia’s asylum seeker policy is predicated upon as evidenced in the Migration Act of 1958.

**Recommendation 2:** The Committee should recommend the rejection of the Bill as it is in direct opposition to a universally accepted basic human right that Australia’s asylum seeker policy is predicated upon as evidenced in the Migration Act of 1958.

**Thirdly**, we consider that the government is seeking to subvert the Will of Parliament by presenting the Parliament with a bill which is a facsimile of *Migration Amendment Regulations 2002 (No 4)* disallowed by Parliament on Wednesday, 19<sup>th</sup> June, 2002. According to Westminster Parliamentary tradition a proposition rejected by Parliament is not re-presented to Parliament until Parliament rescinds its rejection. This tradition respects the Will of Parliament. The government by re-presenting the

same proposition previously rejected by Parliament is ignoring a fundamentally important tradition thus the Government is seeking to subvert the Will of Parliament.

**Recommendation 3:** The Bill must be rejected because it sets a dangerous precedent that undermines a fundamentally important tradition of respecting the Will of Parliament when Parliament has made a decision regarding a particular proposition.

**A fourth concern** that we have with the proposed Bill is that it represents unnecessary public policy: A public policy instrument already exists, *Migration Legislation (Excision from Migration Zone) Act 2001*, therefore the proposed legislation is unnecessary.

**Recommendation 4.** The proposed public policy as outlined in the Bill is unnecessary and therefore should be rejected.