

Jonathan Curtis  
Committee Secretary  
Senate Legal and Constitutional Committee  
Department of the Senate  
Parliament House  
Canberra ACT  
Australia

Dear Secretary

I wish to draw to the attention of your Committee the following media release from UNHCR concerning the proposed Migration Amendment (Designated Unauthorised Arrivals) Bill 2006.

Clearly, UNHCR is concerned by aspects of the Bill. To me, as an Australian citizen, there is a sleight of hand in the proposed legislation declaring the mainland of Australia to be not part of Australia. This is reminiscent of the dictation test of the old White Australia Policy, by which ANY individual or group can be kept out of Australia at the whim of the Minister. Once such Legislation is in, it is certain that it will be misused, in the short or longer term.

And who is going to be designated to be kept out? and who is going to be designated to be let in? and what are the deciding criteria?

Each paragraph in the UNHCR document warrants careful scrutiny and thought, as there is a real risk of Australia becoming a less than good world citizen if these proposed amendments are allowed. I for one would be ashamed of being an Australian citizen if this is passed.

Sincerely,

Robert Gunter  
Red Hill Vic  
Australia

" " These Briefing Notes are issued by Media Relations & Public Information,  
"UNHCR, Geneva.  
"Tuesday 18 April 2006  
"Jennifer Pagonis - Media Relations & Public Information

"AUSTRALIA - measures to deal with new boat arrivals

"Late last week, Australia announced that it was going to tighten its border control measures to deal with new boat arrivals saying the measures would reflect its commitment to its international protection obligations. Under

the proposed legislation which we haven't seen yet, all new boat arrivals whether they arrived on the mainland or in the offshore excised area (that is, those places excised from Australia's migration zone since 2001 including Ashmore and Cartier Islands in the Timor Sea, Christmas and Cocos Islands in the Indian Ocean, and offshore resource and other installations, \*) would be transferred offshore to have their asylum claims processed.

"UNHCR is aware of the difficulties and shares the concerns governments face dealing with people smuggling and managing irregular arrivals in their territories, including unauthorized boat arrivals. However, these proposed new measures raise some serious concerns. In particular the stated intention that persons who land on the Australian mainland - who should normally fall under the migration act and have their claims processed in Australia - will be taken offshore for assessment of their claim, with Australia's responsibilities to bona fide refugees deflected elsewhere.

"If this were to happen, it would be an unfortunate precedent, being for the first time, to our knowledge, that a country with a fully functioning and credible asylum system, in the absence of anything approximating a mass influx, decides to transfer elsewhere the responsibility to handle claims made actually on the territory of the state.

"This is even more worrying in the absence of any clear indications as to what might be the nature of the envisaged off-shore processing arrangement. If it is not one that meets the same high standards Australia sets for its own processes, this could be tantamount to penalising for illegal entry. The widely adhered to practice is for signatory states to the 1951 Refugee Convention, like Australia, to provide to asylum seekers access to a full and fair refugee status determination process to determine their protection needs, implemented by the state authority, with the real possibility of timely and appropriate solutions; exclusion of any possibility of refoulement; and that asylum seekers should be able to live in humane, decent conditions which respect family unity while waiting for their claims to be processed and a solution found.

"UNHCR would not normally substitute for a well-established national procedure such as Australia's. "

\*Footnote deleted