

Committee Secretary
Senate Legal and Constitutional Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600
Australia.

18th May, 2006

SUBMISSION:

Inquiry into the provisions of the Migration Amendment (Designated Unauthorised Arrivals) Bill 2006.

As an Australian citizen and someone who has been actively involved with supporting refugees and asylum seekers both in detention and in the community, I am extremely concerned about the proposed amendments to the Migration Act 1958.

My submission to the Senate Legal and Constitutional Committee will cover the following points:

- The impact of such amendments on people seeking asylum in Australia
- The impact on Australia's standing in the eyes of the international community
- The impact on the economy of Australia.

1. The impact of such amendments on people seeking asylum in Australia.

Last year it seemed that there had been a realisation by DIMIA and the government that the hardline policies regarding to the treatment and processing of asylum seekers was deeply flawed.

'Cultural change' was promised. But these amendments plainly show that there has been no change, no desire to change, and certainly no understanding of the necessity for change.

Yet we know the results of that old system. We know about the traumatised children, the despairing young men, the separated families, the broken lives. It's all laid out in black and white. The reports by Parliamentary committees, UNHCR, HREOC, Amnesty International, M.J. Palmer, the Refugee Council of Australia attest to the physical and mental devastation of people kept in indefinite mandatory detention in harsh surroundings and under constant threat of deportation.

At least we have those reports-what will happen if these amendments are passed and the hapless asylum seekers are incarcerated on Manus Island and Nauru well away from public gaze? Will the Australian government accept responsibility for ensuring that the detainees receive good treatment in adequate accommodation and that their physical, educational, social, legal and medical rights are met?

My most pressing question is WHY? Why are these draconian amendments being proposed? Surely it can't really be to appease Indonesia's anger that we treated asylum seekers according to our international obligations? The government says no but, judging by recent interviews with Indonesian MPs, they believe that is exactly what it's all about.

And that means that the Howard government is willing to risk destroying the lives of men, women and children simply to re-balance our relationship with Indonesia-until the next time.

If, as we are constantly being told, Australia is really a generous and compassionate country, this legislation would not be happening.

2 The impact on Australia's standing in the eyes of the international community

I have read and heard government statements that assure us that 'Australia takes seriously its international obligations'. I question how the government can possibly reconcile such a statement with the following excerpts from UNHCR Revised Guidelines on Applicable Criteria and Standards Relating to the Detention of Asylum Seekers (February 1999)

"For detention of asylum seekers to be lawful and not arbitrary, it must comply not only with the applicable national law but with Article 31 of the Convention and international law." (page 2) and "Article 31 exempts refugees coming directly from a country of persecution from being punished on account of their illegal entry or presence". (Page 1)

On the Dateline program (3/5) Senator Vanstone stated that, '...the whole purpose of this change is to ensure that Australia is not plagued with people arriving unlawfully'. Surely such a purpose is in direct opposition to the UNHCR's declaration that detaining asylum-seekers as 'part of a policy to deter future asylum-seekers...is contrary to the norms of refugee law'? (page 4) How does the government explain away these breaches?

Then there is the fact that children will be once again in detention, back behind the fences-and once again Australia's refugee policy will be called into question. This happened in May 2004 when the HREOC report, National Inquiry into Children in Immigration Detention Report- A Last Resort? found that Australia's immigration detention policy had "failed to protect the mental health of children, failed to provide adequate health care and education and failed to protect unaccompanied children and those with disabilities".

Another major finding of the report was that "Australia's immigration laws, as administered by the Commonwealth, and applied to unauthorised arrival children create a detention system that is fundamentally inconsistent with the Convention on the Rights of the Child (CRC)"

However the Report didn't cover the centres under the Pacific Solution because when the Inquiry asked the Department to facilitate a visit to Nauru or Manus Island so that it could interview the children and their families there, 'the Department declined the request and has not provided any statistics on the children detained there' (HREOC Report. Page 5)

In 2005 it was announced that women and children would only be kept in detention as a last resort-the commitment required under the Convention. Now that will no longer apply on Manus Island and Nauru so once again we will be in breach of our international obligations.

Australia will be viewed, by those countries concerned about the importance of upholding of human rights, as less than compassionate, less than humane, less than generous-and more than willing to manipulate the Conventions and agreements designed to safeguard human rights for short-term political gain.

And what sort of example does our country set for those leaders who already treat human rights with contempt? It will certainly be more difficult for us to criticise the policies and actions of other countries once this legislation is passed.

3. The impact on the economy of Australia.

Perhaps, if my first two points make no impression on those lawmakers who believe it is acceptable to use any and all methods to 'protect' our borders from desperate people fleeing persecution, my final point might touch the ever-sensitive hop-pocket nerve.

So my question is, how many millions has it already cost to keep Manus Island but empty and the last despairing Iraqi men on Nauru? And how many more, I wonder, will it take to rebuild and refurbish the centres to a habitable level for the next lot of unfortunate asylum seekers?

The cost to Australian taxpayers has been and will be exorbitant. And this at a time when our roads, hospitals, schools are in need of financial support? When transport systems all over the continent need huge injections of money? When we have homeless people, young and old, living on the streets? And families selling their houses to pay for cancer treatments? What a criminal waste!

Senators, I have seen the fear, the sleeplessness, the anxiety attacks and the depression of my friends in detention; I have talked with them during dark times of hopelessness and I have visited them in Glenside Psychiatric Hospital. Now, even though they have been released, I see the on-going effects-migraines, mood swings, loss of concentration and confidence.

Please do not pass these amendments - don't let it start all over again.

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