Dear Honourable Senators,

Now, after some promise of positive movement of that "culture change" mentioned by the Ombudsman and in many other reports regarding DIMIA, the Migration Departments, retrograde changes to the Migration Act are again being pushed on the Parliament, together with the burden of expenditure of hundreds of millions of dollars of taxpayers money.

A reaction to the Indonesian Government's complaints about Australia's acceptance of the refugee claims of 42 West Papuans, has produced a clamp down on "unauthorised arrivals", regardless of the clear need to offer asylum to those fleeing persecution in Indonesian territory and in disregard or our legal obligation under the 1951 Convention on the Status of Refugees.

Can we with, good conscience, face further shame, after the many scandals unearthed in a string of reports by the Commonwealth Ombudsman about Cornelia Rau and many others. Will we be part he injustice and the breaches of the Refugee Convention, and inflicted on hundreds of refugees - including that of the Rights of the Child.

The Migration Amendment (Designated Unauthorised Arrivals) Bill 2006 proposes to amend the Migration Act 1958 to expand the off-shore processing regime currently applying to offshore entry persons and transitory persons to include, in addition, all persons arriving at mainland Australia (meaning other than at an excised offshore place) unlawfully by sea on or after 13 April 2006.

This will deny all onshore access for asylum seekers leaving only Off-Sore “Compassionate Processing” and thus disregards the total 1951 Refugee Convention under a pretence of a “Second Movement” denial of processing onshore claims via a catch 22, but it may aid the governments preference to choose, in off shore processing, who they want rather than who needs their protection.

The policy breaches our international obligations under the 1951 UN Refugee Convention:

Under article 1 the asylum seekers are not “Illegals”

Article 16(1) states that A Refugee shall Have access to the courts on the territory of all Contracting States, but this will be denied them, along with many other obligations under many of the 46 articles of the Convention, but the vulnerable are thus being denied the protection of the law, as were the Jews in Germany, by legislation in 1938.

Article 31 obliges us not to penalize refugees on account of their entering or being present in Australian territory without authorization. For asylum-seekers processed offshore, they will not have access to merits review of their case if they appeal a negative primary decision, they will be detained in sub-standard conditions with limited or no access to humanitarian and legal support.

Article 32 obliges us not to expel refugees lawfully in Australian territory save on grounds of national security or public order.

Article 33 obliges us not to return or expel refugees to the frontiers of the territory where they face persecution. If the Australian navy is used in any way to return West Papuan refugees to international waters, to Indonesian territorial waters, to turn them over to Indonesian authorities, or to assist Indonesian authorities to intercept them, this will constitute a clear breach of this article.

Under the proposed legislation, children and families who arrive by boat will again be detained on Nauru, Manus Island or Christmas Island. This is a clear

breach of the reforms negotiated by Petro Georgiou and others in 2005 that amended the Migration Act to enshrine the principle that children should only be detained as a matter of last resort.

All people arriving by boat and making a claim for protection will be denied access to full status determination and appeals process provided for by Australian law - the Refugee Review Tribunal and courts. Between 1993 and 2006, the Refugee Review Tribunal has 'set aside' on appeal the negative primary decision of the Department of Immigration in 11.8% of cases. That is, the Department's determination that a person was not a refugee was overturned in 11.8% of all appeals to the RRT.

In 2001-02, in the case of Afghani asylum-seekers, the RRT set aside the Department's negative determination in 62% of appeals, and 87% in the case of Iraqis.

Without access to these appeal mechanisms, therefore, and with a determination process inferior to that undertaken in Australia, it is highly likely that the Department will make faulty determinations and send refugees back to persecution.

The Government has expressed the preference that all boat arrivals be resettled, not in Australia, but in a 'third country'. Previous experience of the Pacific Solution suggests that this will leave people in detention for years (perhaps indefinitely) while Australia shirks its responsibilities and find other countries to take refugees who should have been able to make their claim and seek protection here.

96% of the refugees previously held in detention on Nauru and Manus Island were eventually resettled in either Australia or New Zealand. Only 4.3% were settled in any other country, and then only because they already had family connections to that other country.

The legislation creates the impression that Australia is seeking to avoid its responsibilities, avoid our legal obligations and dump our 'problems' on our poorer neighbours. This perception could well undermine Australia's ability to promote human rights, good governance and the rule of law in the international arena.

The legislation appears to have been proposed in response to pressure from Indonesia. This could signal that, rather than promote and defend human rights; Australia is prepared to alter policy and legislation to accommodate the wishes of foreign powers.

The practice of Pacific Island detention is costly and inefficient. The Government estimates that $240 million has been spent so far on Nauru - that comes to approx $195,000 per asylum seeker housed there.

I remain yours respectfully, Peter C. Friis

Buderim, Qld