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## **Migration Amendment (Designated Unauthorised Arrivals) Bill 2006**

The publicity in the Australian and international media surrounding the Papuan asylum seekers has caused the Indonesian government great embarrassment. The open display of the symbols of Papuan nationalism and the articulation of demands for Papua's independence are political acts that have not been permitted in Papua since the end of 2000. The Indonesian Government's success in restricting political freedoms in Papua provided the political motivation of the asylum seekers. It is also the context in which to understand the Indonesian government's distress at the publicity, which the asylum seekers have attracted to their cause.

The purposes of this submission are threefold. Firstly, the submission questions whether this Bill will have the desired outcome of depriving Papuan asylum seekers the opportunity to promote their independence struggle in Australia. The submission argues that the Bill could be counterproductive and foster a substantial group of Australians sympathetic to Papuan independence. Secondly, it will argue that the Bill will not make any contribution to the resolution of the core problem that fuels the desire of Papuan activists to seek asylum in Australia. Thirdly, the submission doubts whether there are likely to significant numbers of asylum seekers from Papua.

Australia's relations with Indonesia have been placed under significant stress by the Australian decision to grant temporary protection visas to 42 Papuan asylum seekers. The asylum seekers arrived on Cape York in January 2006, pleading for freedom, peace and justice, flying the Papuan Morning Star flag and a banner claiming that the Indonesian military was committing genocide in Papua. The Indonesian Government recalled its Ambassador from Canberra. When President Susilo Bambang Yudhoyono announced that Indonesia would review cooperation with Australia, he specifically mentioned counter-terrorism, trans-national crime and illegal migration: three aspects of bilateral cooperation that have been effectively developed in recent years and are highly valued by the Australian government.

Migration Amendment (Designated Unauthorised Arrivals) Bill 2006 appears to have been designed to assuage the Indonesian government's anxieties about both Australia's policy towards Papua and the ability of Papuan nationalists to use asylum in Australia to attract international attention to Papua's struggle for independence. Mr. Robb, in his second reading speech for the Bill, specifically referred to the arrival of the Papuans as having highlighted the incongruous situation whereby the Papuans had accessed onshore protection arrangements by landing on Cape York, just a few kilometres further than the Torres Strait islands already excised for migration purposes. Foreign Minister Alexander Downer identified the objective of the bill in more explicitly political terms when he told the ABC's Insiders program on 21 May that the Indonesian Government "...don't want the secessionist movement to be able to use - if you like, to exploit for political purposes - um, Australia's refugee policies." Alexander Downer went on to explain that Australia wanted to make sure "...that the generosity of Australia's

refugee system is not exploited for political purposes and designed simply to embarrass the Indonesian Government and get publicity at the expense of the Indonesian Government.”

The Papuan asylum seekers have attracted extensive and mostly favourable publicity. The atmospherics in Australian public opinion have been markedly different from that in the recent past when the asylum seekers were from the Middle East and were not Christian Melanesians. Illustrating the different public mood, SBS television's evening news coverage of Good Friday featured the Papuan asylum seekers at prayer in a Melbourne church. *The Australian* published a privately commissioned "Newspoll", which indicated that 76.7% of those polled supported self-determination for the people of West Papua. The poll was published a week after the Minister of Immigration and Multicultural Affairs announced the government's intention to introduce this Bill.

The Minister's announcement has changed the political debate in Australia about Papua, relations with Indonesia and asylum seekers. It has created a much larger and more influential constituency for the cause of Papuan independence by linking Papua to the highly contested issues of border protection, detention and offshore processing. The Bill has succeeded where four decades of lobbying by the small group of Australian pro-independence activists have failed. In the period since the Minister's announcement there have been more than 190 articles in the Australian press on the matrix of issues around Papua, relations with Indonesia and refugee policy. Confirming the sentiments revealed in *The Australian's* poll, *The West Australian*, 24 April, published the results of a "WestPoll" from which the paper concluded: "...John Howard misread the Australian electorate when he whipped up a new immigration policy to appease the Indonesians." The paper contended that the government had created "...a backlash from Australians across the political spectrum who resent Australian policy being tailored to the whims of another nation.... Sixty-one per cent of those surveyed did not agree that Australia should be influenced by Indonesian complaints when deciding whether to accept refugees from West Papua."

Paul Kelly, *The Australian's* respected "editor at large" (22 April), wrote of the wide-spread criticism of the Bill from the media, churches, human rights activists and international lawyers: "The old clarion call rolls across the land. John Howard is denounced as the latest appeaser of Indonesia as Australia, unable to save itself, heads towards another crisis with Jakarta." Kelly recognises that the relationship with Indonesia is of the greatest strategic significance for Australia. He correctly identifies this Bill's provisions and the manner and circumstances of the government's announcement as being as catalyst for the mobilisation of anti-Indonesian sentiment. Kelly discerned what *The West Australian's* poll found: a strong public sentiment that can make the Bill's provisions counter-productive.

If the Bill becomes law, the Australian government will face the possibility of political controversy in Australia and tensions in relations with Indonesia every time Papuans claim asylum and are shipped offshore for the processing of their claims. If the dynamics of the public debate in Australia since the Minister's announcement continue, there is the potential for the development of what the Indonesians fear most: a substantial group of Australians sympathetic to Papuan independence, who will pressure the Australian government to re-assess its recognition of Indonesian sovereignty in Papua. This is how the shadow of the Timor of 1999, and the Australian-led international intervention, haunts the Indonesian elite.

The likelihood of this Bill being counterproductive will be much greater if the conflict in Papua remains unresolved. The Indonesian government's handling of the Abepura riots in March 2006, in which 5 members of the Indonesian security forces were killed, suggests that that is it acutely

sensitive to the possibility of a violent clash between Papuans and the Indonesian security forces becoming an international incident in the manner of the 1991 Santa Cruz massacre in East Timor. The Indonesian Defence Minister, Juwono Sudarsono, recognises that Santa Cruz massacre raised questions in the international community of the viability and legitimacy of Indonesian rule.

The second point that this submission seeks to make is that this Bill does nothing to support the long-term resolution of the conflict in Papua and may indeed relieve some of the international pressure on the Indonesian government to implement the President's commitment for peaceful resolution on the basis of the 2001 Special Autonomy Law. The Bill's provisions have been welcomed by the Indonesian Foreign Minister, Hassan Wirajuda, as a means of restoring stability in the relationship. The Bill would provide some short-term comfort to the responsible Ministers in Jakarta and Canberra, if it were successful in denying the opportunity of Papuan activists to use asylum in Australia to attract attention to their cause.

The Bill does not address the core issue of what motivated the Papuans to seek asylum in Australia. The voyage of the asylum seekers to Australia was a conscious political act to attract Australian and international attention to the struggle for Papuan independence. It reflected Indonesia's success in severely restricting political mobilisation in Papua itself as well as a sense of despair felt broadly in the Papuan elite that the Indonesian government was not committed to dialogue with the Papuans and a peaceful resolution. These political restrictions in Papua are in marked contrast to the democratization that has developed in much of the rest of Indonesia and the freedoms that were enjoyed in Papua during first couple of years after the fall of President Soeharto.

President Susilo Bambang Yudhoyono has made numerous public commitments to seek a resolution based on the Special Autonomy Law. However, the recent policy decisions of his government have made a political resolution more difficult. It has been apparent that powerful sections of the Indonesian government are opposed to the implementation of Special Autonomy. These groups fear that if Special Autonomy was implemented according to the letter and spirit of the 2001 Law it would empower a Papuan elite that would use autonomy as a platform for a further struggle for independence.

In respect to Papua, Australia is in an awkward and paradoxical position in its relations with Indonesia. Of all Indonesia's friends and neighbours it has the greatest interest in the Indonesian government reaching a political resolution in Papua. Yet, Australia is in a particularly weak position to facilitate a resolution. Many in the Indonesian elite, both inside and outside the government, hold deep suspicions about Australia's intentions in Papua as well as the resentments about Australia's role in East Timor.

It is not the purpose of this Bill or the responsibility of the Australian parliament to develop a framework for a peaceful resolution of the conflict in Papua. However, the Parliament should be assessing this Bill from the perspective of whether it will support the Indonesian government to move constructively towards peaceful resolution.

Finally, the Parliament is being asked to make fundamental changes to the way Australia processes asylum seekers and upholds its international obligations. These changes have attracted criticism from the UNHCR and have become the focus of political controversy in Australia. The Parliament needs to assess the likelihood of further asylum seekers arriving from Papua. History suggests that the numbers will be small and the arrivals infrequent. Prior to the arrival of the 43 Papuan asylum seekers in January 2006, there have been remarkably few asylum seekers from Papua. In the mid 1980s, there

were a handful of Papuans who landed on islands in the Torres Strait. In 1985 the Minister for Immigration, Chris Hurford, claimed that if the government allowed the 5 Papuans on Thursday Island to stay in Australia, hundreds of others would follow. The hundreds have never come.

Given that the conflict in Papua commenced shortly after Indonesia assumed responsibility for the territory in 1963, the appropriate question is: why have there been so few asylum seekers? The principal explanation is that Papuans have sought and found refuge across the border in Papua New Guinea. Over ten thousand Papuans fled into PNG in the mid 1980s. According to the UNHCR, in early 2005 there were 8215 Papuans living in various camps in PNG.

It is logistically much easier for Papuans to escape into PNG than to travel to Australia. The southeast coast of Papua, closest to Australia, is not readily accessible from the main political centers of Papua. The voyage of the 43 asylum seekers from Jayapura around the coast of Papua, then from Merauke to Cape York was a significant feat in a canoe – something Captain Bligh would have admired.

A handwritten signature in black ink, reading "Richard Chauvel". The script is cursive and fluid, with the first name and last name clearly distinguishable.

Dr. Richard Chauvel  
22 May 2006