

Senate Legal and Constitutional Affairs Committee

An inquiry into the Migration Legislation Amendment (Regional Processing Cohort) Bill 2016

Submission: The Australian Churches Refugee Taskforce

Contact:

The Very Reverend Dr Peter Catt, Chair
pcatt@stjohnscathedral.com.au
St John's Anglican Cathedral
07 3835 2222

Misha Coleman, Executive Officer
info@acrt.com.au
0428399739
www.acrt.com.au

Australian Churches
Refugee Taskforce



An initiative supported by
**National Council of
Churches in Australia**

Introduction

The Australian Churches Refugee Taskforce ('the Taskforce') is an initiative of the National Council of Churches in Australia ('NCCA') and came together in early 2013. It is comprised of 22 Senior members of clergy, nine Christian denominations and three ecumenical bodies. It has 930 entities as network members.

The Migration Legislation Amendment (Regional Processing Cohort) Bill 2016 ('the Bill') effectively seeks to ban asylum seekers and refugees who arrived after 19 July 2013, and have been sent to offshore detention (or temporarily brought to Australia from offshore detention) from ever coming to Australia. There is an exception given for the Minister to exercise discretion and grant permission.

The stated purpose of the Bill is to:

"...reinforce the government's longstanding policy that people who travel here illegally by boat will never be settled in this country."¹

The Taskforce is opposed to the passage of this Bill and urges the Senate to reject the legislation. As it stands, the Bill could separate family members on a permanent basis.

Our central concern is the impact that this will have on the already vulnerable families and individuals who have been suffering for too long in Australia's offshore detention camps.

This legislation will tear apart families, and people will lose loving and supportive relationships. It will create another form of punishment, for those people who sought our protection. These are people we have damaged through our actions, who desperately need the stability of loving relationships to help them on the path to recovery from deep trauma, to help them rebuild their lives.

The logic for bringing forth this Bill, and the reasons used to justify it, do not stack up. If passed, it will again signal another blow, and a further undermining, of the rule of law and the protections of fundamental rights in our country.

The United States deal

The Taskforce notes the Government's announcement on Sunday 13th November regarding a possible refugee resettlement deal with the United States for some of the refugees on Nauru and Manus Island.

The Taskforce welcomes the acknowledgement that these cruel detention regimes are unsustainable. The Taskforce will closely monitor any deals, to ensure that safe and fair resettlement is the ultimate priority. This deal may offer opportunities for more sustainable resettlement, but it must not be contingent on this new "lifetime ban" Bill.

¹ Minister for Immigration and Border Protection, Second Reading speech, Migration Legislation Amendment (Regional Processing Cohort) Bill 2016, House of Representatives Hansard, Tuesday 8 November 2016.

An attack on family and loving relationship

The Australian Government has long known that people who have been suffering in our offshore detention camps have many family and loved ones in Australia.

We estimate that there are currently at least 20 families who have been separated, by the Australian Government, between the Australian mainland and the offshore sites. If the Parliament passes this “lifetime ban” Bill they are consigning these families to permanent separation.

There are also vulnerable families, who have been brought here from offshore detention and made homes and lives in the Australian community, families with children who have been born here and have only ever known an Australian life, who are now threatened with permanent exile.

This Bill will be particularly acute and heartbreaking for the families who have arrived in recent years by boat – *having no other pathway* - from war torn regions, or fleeing persecution, who arrived at different times and so were subject to the shifts in policy created by successive Governments.

For instance, part of the family may be in Australia, restricted to temporary protection through a TPV or SHEV, whilst other parts of the family may continue to be detained on Nauru, or may even be able to resettle to America. Yet those on TPV and SHEV visas will be prevented from leaving the country to see their families. Those in the United States will be unable to travel here.

Another anguished separation, another form of exile.

The US deal also remains completely murky on details and timing, and the possibility of any family reunification in that country. And regardless, even if some form of reunification might eventually be possible in the US (and this is by no means clear or guaranteed), the “lifetime ban” would still require families having to sacrifice the loving and supportive relationships of anyone left behind here in Australia.

All of our major political parties speak of the need for strong families, and the support for strong families being the foundation stone of our community. Indeed, part of the Liberal Party of Australia’s core beliefs is “in a just and humane society in which the importance of the family and the role of law and justice is maintained.”² This belief in the importance of family and in keeping the sacred familial bonds intact is shared by the Australian Churches and our community.

In banning people for their lifetime *from even visiting Australia*, **this piece of legislation is an attack on the foundation of the family**, of belonging, of connectedness. Of critical importance to human health, wellbeing, purpose and contribution – are loving and supportive relationships. They are the very things central to what it means to be human.

² <https://www.liberal.org.au/our-beliefs>

No serious justification for this measure

The legal and moral dubiousness of this Bill are compounded by the lack of serious or real justification for proposing it in the first place. There are many respects in which this measure does not stack up, three key aspects include:

- ***Why do we even need this measure?*** There are already strong legislative provisions in place to deal with situations in which abuse of the visa system is suspected, such as a possible fake wedding. In the second reading speech and subsequent announcements, the Minister and Prime Minister have also been at pains to explain the great “successes” of Operation Sovereign Borders in preventing boats from arriving in Australia. The stated purpose is to merely “reinforce” the existing policy. At best this measure appears to be a response to an obscure hypothetical problem, or one that has not been clearly established, at worst it appears a cynical and unjustified measure to sustain a political and rhetorical line. To impose a lifetime of exile is a completely disproportionate response.
- ***This kind of message?*** Another central justification given for this measure is that it will “send the strongest possible signal to the people smugglers”. This makes explicit that the real target of this Bill is not the refugees and asylum seekers that will suffer its impacts, but another group of people in an entirely different part of the world. The Australian Churches have made this point repeatedly over the years; it was morally untenable to punish people seeking asylum in order to make a point to people smugglers in 2013, and it remains morally untenable now.
- ***There are no alternatives?*** There is also a massive assumption underlying the entire measure that bears scrutiny. It assumes there is no other way to achieve the general aims except by this singular action. It is mind boggling to consider that with all the technical expertise, the intelligence, and experienced personnel we have gathered in Canberra, that this is the *only possible option* available. This is nonsense.

There are a number of alternative options that are open to the Australian Government, and the Parliament of Australia, if they are truly serious about stopping dangerous irregular travel by sea, which may lead to death. For instance, many examples are outlined in the recent Australian Human Rights Commission Report, *Pathways to Protection: A human rights-based response to the flight of asylum seekers by sea, 2016*. The US deal is a one-off arrangement - it is no long term solution. Australia cannot indefinitely sustain the greatest military maritime deployment since World War II. Any policy makers and members of Parliament who are earnest in their desire to find a better way through this policy quagmire, must begin to turn their minds to these alternatives.

The Australian Churches Refugee Taskforce would welcome a conversation with any member of Parliament about the vast range of possible policy alternatives that might be considered.

Conclusion

We cannot continue to further punish the people that have already suffered so much in our offshore detention system.

This, combined with a lack of a real reason or serious justification for this measure gives this Bill an air of sallow political theatre, and enhances the sense of moral grotesqueness which now surrounds the entire asylum seeker debate.

This debate has lost sight of the real issues, the bigger picture, the still desperate need for longer term and more enduring responses to the *real* challenges we Australians face, not the rhetorical ones that have been created in the pressure-cooker of daily politics.

The Taskforce urges the Parliament to reject this unnecessary and cruel Bill.

However we also welcome any open conversation about the many policy alternatives to the real and genuine issues we face; to provide more lasting, grounded and effective mechanisms for dealing with the displacement of our fellow human beings, especially those in our region.