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Submission to the Senate Legal and Constitutional Affairs Committee inquiry into the Migration Amendment (Removals and Other Measures) Bill 2024

Your full name/group name

Date

Dear Senate Legal and Constitutional Affairs Committee inquiry,

I/we welcome the opportunity to provide a submission to the Senate Legal and Constitutional Affairs Committee inquiry into the Migration Amendment (Removals and Other Measures) Bill 2024.

Add a few lines here about yourself/your group so the Committee knows who you are. Where are you from, why are you writing this submission, is there a community you represent etc.

I/we urge the Senate Legal and Constitutional Affairs Committee to fully oppose the Migration Amendment (Removals and Other Measures) Bill 2024.

A number of the elements of the Bill risk putting Australia in breach of its international obligations, including; the criminalisation of non-cooperation with removal, punishable with up to 5 years' imprisonment with a mandatory sentence of 12 months; the ability of the Minister to arbitrarily reverse a person's protection finding; and the broad prohibition on any type of visa applications from almost all nationals of certain countries.

Removal concern countries

The Bill gives the Minister the ability to designate countries who do not accept the return of citizens on a non-voluntary basis as 'removal concern countries'. At a practical level, this designation would result in the suspension of almost all visa applications from these countries.

Sadly, this Bill raises the spectre of former US President Donald Trump's "Muslim Ban" policy, targeting a select group of countries in clear violation of Australia's international human rights obligations given the undeniable discrimination based on race, religion, and national origin, as well as the potential devastating impacts of family separation.

Ability to expand impacted visa categories

While the current Bill relates to a group of people on a specific visa-class, the legislation gives this or any future government the ability to expand the visa categories that this legislation would capture

and apply the same draconian provisions without the need to pass new legislation through the Parliament.

This could mean that refugees and people seeking asylum who have been detained in offshore detention on PNG and Nauru for nearly 10 years - and who were brought to Australia for urgent medical treatment - may be forced to return to a country where they fear for their safety, or face the prospect of 5 years imprisonment.

Ability to revisit protection findings

The Bill gives a discretionary power to the Minister to reverse a protection finding, which could compel a person seeking asylum to return home under the threat of a criminal penalty, seriously risking Australia's obligations not to refoule someone to a country where they face human rights abuses.

In Australia, Afghans from minority groups were still having their protection claims rejected in the weeks leading up to the return of the Taliban, on the flawed assessment that it was safe for them to return to Kabul. Under this Bill, people in similar circumstances could now face 5 years imprisonment for refusing to return back to a country if similar processes come to the same flawed conclusions.

Fairness of previous protection findings

The current Bill assumes that people who have pursued a protection claim in Australia and have exhausted their legal avenues have had the opportunity to engage in a fair process, but this is not always the case. When in opposition, the Australian Labor Party criticised what is referred to as the 'fast-track process', by which protection claims were reviewed under a different system than is standard, with no right to meaningful review.

Thousands of people seeking asylum rejected under this process, who have been living and working in Australia for more than a decade, have faced limbo and uncertainty. Under this Bill, this same group will be facing the very real prospect that they will be forcibly returned to the country from which they fled, or 5 years imprisonment.

Explain why you support alternative measures in the support of refugees and asylum seekers, such as raising the refugee and humanitarian intake, help more people find a safe place to live, and to end offshore detention.

Our/my recommendation: The inquiry recommends the government to abandon the Migration Amendment (Removals and Other Measures) Bill 2024.

Yours sincerely,

Your full name/group name