

LATEST NEWS

New refugee bill ‘retrograde and reprehensible’

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Jesuit Refugee Service Australia has criticised the Australian government’s decision to excise the mainland from the migration zone, saying it amounts to a selective *de facto* withdrawal from the Refugee Convention and undermines the international refugee protection regime.

The decision to introduce a migration amendment bill is a direct response to a recommendation of the Houston Panel that the Australian mainland be excised from the migration zone. The change will remove the legal advantage afforded asylum seekers who arrive in mainland Australia as compared to those who are taken to Christmas Island.

‘Whatever the motivations of the recommendation in the Houston Report that Australia should excise itself from the protection map, as a matter of legal principle it is a retrograde and reprehensible step’, says JRS board member and human rights lawyer Eve Lester.



‘It is part of the Pacific Solution Mark II, which is already proving to be highly damaging to the lives of those asylum-seekers who have been shunted off to languish on Nauru – for how long, no one knows, least of all the hapless asylum-seekers themselves.’

Legal fictions

Ms Lester says that the new bill doesn’t change Australia’s international legal obligations, but rather ignores them: the country is still bound by its obligations under the Refugee Convention and its broader obligations under international law. Moreover, she says, the bill takes the creation of legal fictions to a new height, deeming Australia not to exist for those who need its protection.

‘This bill is a selective *de facto* withdrawal from the Refugee Convention, which is hardly in keeping with its protective purpose and spirit. It ... fails completely to view the international refugee protection regime, and the statistically small part that Australia plays in it, in context’, she says.

‘It will not only do further damage to Australia’s international reputation, it is also a severe blow to the international protection regime as a whole, which it undoubtedly undermines - a regime which depends heavily on countries giving effect to their responsibilities as countries of asylum, as well as the notion of burden and responsibility sharing.’

The Minister for Immigration and Citizenship’s statement that the bill is compatible with human rights is legally deficient, and fails to engage with any of the complexities of international human rights law, says Ms Lester.

‘It [also] sidesteps the human rights implications of sending people off to a remote island against their will to suffer conditions that, despite the best intentions of the [Houston] Expert Panel, look increasingly inhuman and degrading.’

The Director of JRS, Fr Aloysius Mowe SJ, reiterated Ms Lester’s comments, saying that the government should be

a guardian of the Refugee Convention.

'Instead it seems to think that there is an "on/off" switch for the convention that it can use depending on political calculations. The Asia Pacific region is a place where refugee protection is deeply deficient, and instead of being a leader and a model in refugee protection, Australia is providing a model for creating legal fictions that strip away protections from people who are most in need of our help', he said.

'It takes more imagination than I am possessed of to understand how the excision is compatible with human rights and Australia's international obligations.'

More: www.jrs.org.au

By Catherine Marshall

COMMENT ON THIS ARTICLE

FRANCIS ARMSTRONG | 07-NOV-2012

We have 2 political leaders who dont give a damn about the asylum seekers and who want the problem to go away. The RC doesnt enter into their calculations except as a mutter of lip service. Julia runs around the PAC RIM throwing taxpayer dollars with largesse to PNG, Nauru, Mannis Island, Indonesia, Timor etc. And why? Because as well as feeding her ego, the asylum seekers then become another nations problem and it appeases the rednecks in both parties that she is stopping the boats. The RC is a complete sideshow in the popularity stakes.

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