



Jesuit Refugee Service Australia

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28th September 2009

Committee Secretary
Senate Legal and Constitutional Committee
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Submission Concerning the Migration Amendment (Complementary Protection) Bill 2009

Dear Sir / Madam,

This submission is made on behalf of the **Jesuit Refugee Service Australia** by its Director, Sacha Bermudez-Goldman SJ.

The **Jesuit Refugee Service** (JRS) is an international Catholic organisation with a mission to accompany, serve and defend the rights of refugees and forcibly displaced people. JRS undertakes services at national and regional levels with the support of an international office in Rome.

JRS programmes are found in over 50 countries, providing assistance to refugees in refugee camps, to people displaced within their own country, to asylum seekers in cities and those held in detention. The main areas of work are in the fields of education, advocacy, emergency assistance, health and nutrition, income generating activities and social services. Jesuit Refugee Service Australia is a part of the Australian Jesuits' social apostolate network

Need for Complementary Protection

a) Grounds for Protection

Asylum laws should provide displaced people with adequate protection. Those who are forced to move to preserve their lives or human dignity have a moral claim on our hospitality. In most cases the more needy the person, the less able they are to access effective protection from the country where they usually live, the greater the moral claim on our care¹.

In recent years Church and community based groups have accompanied and supported asylum seekers in Australia through the process of applying for protection. We have seen numbers of people whose human rights and dignity have been in danger, and who have missed out on protection under our current laws, with tragic consequences for their lives.

Measures that complement the *Refugee Convention*, extending protection beyond those who meet the strict definition of a refugee, are needed. A number of other international human rights instruments to which Australia is a signatory also impose protection obligations. The *Migration Amendment (Complementary Protection) Bill 2009* is a step in the right direction.

JRS Australia believes that the proposed amendments will help Australia to be fairer and more consistent in meeting our *non-refoulement* obligations not to return people to situations of danger as set out in international human rights instruments to which we are a signatory, *inter alia*, the *International Covenant on Civil and Political Rights (ICCPR)*; *Second Optional Protocol to the International Covenant on Civil and Political Rights on the Abolition of the Death Penalty*; *Convention on the Rights of the Child*; and the *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)*.

We further believe in the need to fully incorporate international treaties such as the ICCPR and CAT's non-refoulement provisions, as well as the statelessness convention, into migration law.

¹ Pontifical Council *Cor Unum* & Pontifical Council for the Pastoral Care of Migrants & Itinerant People, *Refugees: A Challenge to Solidarity*, Libreria Editrice Vaticana, Vatican City, 1992, n 4 – 6; see also <http://www.faithdoingjustice.com.au/docs/PeopleOnTheMoveAndCST.pdf>

b) Reducing the Human & Administrative Burden

The inclusion of complementary protection grounds in the *Migration Act 1958*, thus instituting a single protection application process, could reduce the burden of the application process on those seeking protection, and on the administrative system.

(c) Concluding Comments

The Jesuit Refugee Service Australia welcomes the move towards a formal complementary protection system.

We are encouraged that protection visas will be granted to people on the basis of being a member of the same family unit as a person to whom a *non-refoulement* obligation is owed.

While the threshold for meeting the criteria in order to be granted a protection visa under the expanded criteria will be very high, and the requirement that the potential harm be of an *irreparable* nature is of concern to JRS Australia, we believe, nonetheless, that the proposed changes to the Migration Act would provide an institutional framework for the solidarity with people forced to flee from danger.

We commend the complementary protection provisions and encourage all efforts by the Government to continue to improve Australia's protection of vulnerable displaced persons.

(Fr) Sacha Bermudez-Goldman, SJ
Director
Jesuit Refugee Service Australia