



Committee Secretary
Senate Legal and Constitutional Affairs Legislation Committee
Parliament House
CANBERRA ACT 2600

via email

14 November 2016

Inquiry in the Migration Legislation Amendment (Regional Processing Cohort) Bill 2016

UnitingJustice Australia is the national justice policy and advocacy unit of the Uniting Church in Australia Assembly (the national council of the Church).

UnitingJustice is extremely concerned by the provisions of the Bill and recommends that the Bill not be passed.

Since its inception in 1977, the Uniting Church in Australia has been concerned for justice for those who experience persecution, oppression and marginalisation. It has consistently expressed concern for the plight of refugees. The Church approaches the protection of asylum seekers and refugees in the context of the Christian call to welcome the stranger, serve those in need and work for an end to injustice.

The Uniting Church's statement on asylum seeker and refugee policy, *Shelter from the Storm*, declares that:

As Christians called to love our neighbour, welcome the stranger, challenge unjust systems and offer refuge and care to those who are marginalised and in exile, we have a particular responsibility in our society when it comes to responding to issues related to asylum seekers and refugees.¹

Shelter from the Storm sets out a number of important principles that the Uniting Church believes should apply to Australia's policies, legislation, programmes and practices toward asylum seekers, refugees and humanitarian entrants.

- All people should be treated with respect and accorded the dignity they deserve as human beings.
- Australia should do its fair share to ease people's sufferings in the context of what is a global problem and not shift our responsibilities to poor and developing countries.

¹ Uniting Church in Australia Assembly (2015) *Shelter from the Storm: A Uniting Church in Australia Statement on Asylum Seeker and Refugee Policy*, Resolution 15.23.09, Preamble, p. 4 <http://www.unitingjustice.org.au/refugees-and-asylum-seekers/uca-statements/item/1105-shelter-from-the-storm>

For a World Reconciled

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- Policies should be driven by bipartisan commitments to a humanitarian response focussed on protection needs and to upholding our obligations under international law.
- The Australian Government must be transparent in the implementation of its policies, open to scrutiny by the courts and the media and to critique and advocacy from civil society.²

The Australian Government must uphold the international treaties and conventions that Australia has signed including:

- the United Nations *Convention Relating to the Status of Refugees* (the Refugee Convention);
- the *Universal Declaration of Human Rights*;
- the *Convention on the Rights of the Child* (CRC);
- the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT); and
- the *International Covenant on Civil and Political Rights* (ICCPR).

As one of the wealthiest most secure and stable countries in the world, Australia has a responsibility to make a positive contribution to the crisis of refugees and displaced people around the world. The Australian response towards asylum seekers should be culturally sensitive and take into account the situations from which people have come. People should be able to find hope, shelter and restoration from the despair and persecution from which they have fled.

Australia has an interest in promoting human rights and democracy within the region, and the fairness and integrity of its policies for refugees and asylum seekers play a key role in achieving this goal. We can and should be a role model in our region in protecting people from human rights abuses and lead a genuinely multilateral and protection-focussed response to the problems of asylum seekers and refugees in our region.

The Uniting Church believes, simply, that the proposed legislation is immoral. It further punishes an already severely traumatised group of people who have only ever sought our care and protection. Penalising innocent people who have been found to be refugees or who are engaging their right to seek asylum is not the appropriate way to stop the people smuggling trade, nor is it the way to address the significant movement of people fleeing conflict and persecution worldwide. This Bill legislates for the separation of families. It would prevent people who have already been separated by war, violence and persecution from every reuniting with their families in Australia without the special intervention of the Minister for Immigration. It is almost inconceivable that such a law should be proposed, let alone be adopted.

Rather than sending a message to people smugglers, punitive measures of this kind send a message to those people who have already borne the brunt of harsh and abusive policies, to the Australian people and to the rest of the world that we are not a compassionate country, and that we have little regard for the long-term consequences of separating families and punishing innocent people.

We are also concerned that this proposed legislation contravenes Article 31 of the Refugee Convention, which states that “signatory nations shall not penalise refugees for illegal entry when they have come directly from a territory where their life or freedom was threatened”. This Bill further undermines Australia’s commitment to international law.

² *ibid.*, pp. 4-5

UnitingJustice also believes that the legislation is unnecessary. There are existing safeguards in the Migration Act to prevent fraudulent applications (for example, 'faked' marriages).

The passage of this Bill so far, is in itself, of grave concern. There has been little time for parliamentary scrutiny and the outrageously short timeframe for submissions to the inquiry, severely limits public scrutiny.

UnitingJustice Australia recommends that the legislation not be passed.

Yours sincerely,

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