

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

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Contents

About Us	3
Opposing the Bill.....	3
Concerns regarding the Bill.....	4
Impact on Persons Seeking Protection	5
Recommendations	7
Contact us.....	7
Case Studies.....	8

About Us

The [Australian Churches Refugee Taskforce](#) (ACRT) was founded in 2013 and is an initiative of the National Council of Churches in Australia (NCCA). The Taskforce comprises 15 members from 13 different Churches and ecumenical bodies, many of whom work in refugee and asylum seeker services.

The members of the Taskforce have a long history of experience advocating for the rights of refugee and asylum seekers that is rooted in Christian faith and values. Taskforce members all see addressing the plight of people seeking asylum and refugees as part of the Christian mission to reach out to *'the last, the least and the lost'*¹ in our communities as Jesus Christ tasked his followers to do.

Taskforce members are directly involved with caring for asylum seekers and refugees across Australia, with the provision of frontline assistance and pastoral care as you will see in our inclusion of four Case Studies at the end of the ACRT-NCCA Submission.

Through our regular and ongoing support of refugees and people seeking asylum, we see firsthand the disturbing effects the proposed law will have on the physical, mental, and spiritual wellbeing of some of the most marginalised people in our nation.

Opposing the Bill

We welcome the opportunity to provide this submission to the Senate Legal and Constitutional Affairs Committee in response to the Migration Amendment (Removals and Other Measures) Bill 2024 (the Bill).

The ACRT express our strong opposition to the proposed Migration Amendment (Removal and Other measures) Bill (the Bill).

We fear that with the urgency in attempting to pass this legislation, there has been a lack of opportunity for dialogue and consultation amongst those with lived experience who will be most impacted.

Our understanding of the Bill is that it would permit:

- Expanded Ministerial powers to direct non-citizens to comply with deportation-related directions and facilitate their own removal.

¹ "The last, the least, and the lost" is an amalgam of three verses spoken by Jesus Christ in the book of Matthew in the New Testament of the Bible:

- The Last: "So the last will be first, and the first will be last" Matthew 20:16 NIV
- The Least: "The King will reply, 'Truly I tell you, whatever you did for one of the least of these brothers and sisters of mine, you did for me.'" Matthew 25:40 NIV
- The Lost: "For the Son of Man came to seek and to save the lost" Matthew 18:11 NIV

- Mandatory minimum imprisonment of 12 months for non-citizens who do not cooperate with deportation-related directions, including obtaining or signing documents.
- Expanded Ministerial powers to prohibit all visa applications from designated countries placed on a 'Ban list'.

Concerns regarding the Bill

The ACRT express our strong opposition to the proposed Migration Amendment (Removal and Other measures) Bill (the Bill), based on the following concerns:

Indefinite Detention

Legislation may perpetuate the ongoing indefinite detention of individuals that cannot be returned to their countries of origin due to legitimate fears of harm or medical conditions. This amendment forms part of a suite of migration processes which are excessively punitive in dealing with persons who seek protection, who are already the most marginalised in our community.

Imprisonment and Criminalising Individuals

The Bill's provisions permit mandatory minimum imprisonment of 12 months for those who do not comply with deportation-related directions. We are deeply concerned that this measure will unfairly impact and criminalise refugees and asylum seekers who have previously been denied protection under the Fast-Track system. In our experience, the Fast Track system has not provided fair and robust assessments and therefore many people in genuine need of protection have been left behind. We fear that under the Bill, there may be cases where people seeking protection are criminalised or removed despite serious risks to their life or freedom, the latter risking their protection against *refoulement*.²

Separating Families

Expanded Ministerial powers to direct those who have been denied protection to cooperate with and facilitate their own removal will likely cause the separation of families. This is a devastating outcome for the wellbeing of the removed individual, their families, wider community, and the networks that support them.

Burden on Support Services

The increased suffering of asylum seekers and refugees underlined by this Bill increases the burden on frontline community and religious organisations to provide valuable emergency relief for those experiencing the greatest disadvantage. We are concerned these legislative amendments will deepen the already existing challenges we face with resourcing.

² *Convention Relating to the Status of Refugees*, opened for signature 28 July 1951, 189 UNTS 150 (entered into force 22 April 1954).

Visa bans

Visa bans for designated countries are a sweeping new power that may interfere with our obligation to accept people seeking protection as per Australia's international legal obligations³. The Bill also allows the Minister to "reverse" decisions about existing protection findings meaning people may be deported to countries where they face persecution or significant harm.

Impact on Persons Seeking Protection

- **Increased Fear and Anxiety:** In our experience, asylum seekers already face immense uncertainty and fear due to their precarious immigration status and punitive migration processes. The prospect of deportation adds yet another layer of anxiety, which will be detrimental to the psychological and emotional wellbeing of those who seek protection.
- **Trauma and Post Traumatic Stress Disorder (PTSD):** Many asylum seekers have fled from conflict, persecution, or violence in their home countries and therefore have experienced extensive trauma already. The threat of deportation will likely compound this trauma and may exacerbate symptoms of mental ill-health, such as traumatic memories and post-traumatic stress. We see the compounding of trauma resulting in prolonged psychological distress.
- **Sense of Hopelessness and Despair:** We see the profound sense of hopelessness and despair that deportation proceedings can instil amongst persons seeking protection. The prospect of being forcibly removed from the safety they sought in Australia is likely to result in feelings of powerlessness and a sense of overwhelm amongst refugees and asylum seekers.
- **Deterioration of Mental Health:** We fear the stress of looming deportation will take a toll on asylum seekers' mental health, potentially leading to depression, anxiety disorders, and other psychological issues. This deterioration in mental well-being can have long-lasting consequences on their overall health and resilience.
- **Disruption of Social Support Networks:** We see the need of asylum seekers to rely on social support networks within their communities to cope with the challenges of displacement. Deportation and removal from these support networks is disruptive and traumatic, likely, leading to increased isolation and further exacerbating feelings of loneliness and alienation.

³ Ibid.

- **Loss of Trust in Authorities:** The implementation of harsh deportation measures and criminalising those who do not comply, regardless of whether this was intentional or not, will erode asylum seekers' trust in government authorities and the legal system. This loss of trust may hinder their ability to successfully engage with support services or seek assistance when needed.
- **Physical Health Concerns:** In our experience, the stress of deportation can have physical manifestations amongst those who are seeking protection. This includes sleep disturbances, appetite changes, and exacerbation of pre-existing health conditions. The current and ongoing barriers preventing access to adequate healthcare services during deportation proceedings can further exacerbate these concerns and will perpetuate the disadvantage refugees and asylum seekers experience.
- **Legal and Financial Strain:** Asylum seekers facing deportation may endure significant legal and financial burdens associated with navigating the complex immigration system and legal proceedings. This strain will compound existing stressors and limit their ability to access essential resources and support, which are already difficult to access.
- **Impact on current visa holders:** The proposed Bill includes expanded Ministerial power to review visa applications where a refugee status was determined to rescind that decision. We are concerned that this poses extreme risk to the rights of individuals who have had positive refugee status already determined.
- **Face persecution:** If asylum seekers are deported to their country of origin, they could face persecution and discrimination as a result of their personal status or for seeking asylum. This presents significant risks to their life, freedom, and wellbeing.⁴

Overall, the enactment of this Bill in Australia will have profound and detrimental effects on the physical, psychological, and emotional well-being and livelihoods of the most vulnerable in our community.

⁴ *Convention Relating to the Status of Refugees*, opened for signature 28 July 1951, 189 UNTS 150 (entered into force 22 April 1954).

Recommendations

The ACRT supports a migration system that upholds the rights of refugees and people seeking asylum that respects their dignity and humanitarian needs and accords with the conventions of international law.

1. We stand in support of our legal, human rights, and social service colleagues across Australia and **strongly oppose** the implementation of the proposed Migration Amendment (Removal and Other Measures) Bill 2024.
2. We urge the need to enhance fair processes for the determination of refugee status for the thousands of asylum seekers in Australia left behind by the Fast Track system.
3. We advocate for an adequate safety net whilst protection claims are assessed by expanding the Status Resolution Support Service.
4. We encourage increased investment and resourcing to be provided to refugee legal and casework services to help expedite the Resolution of Status visa application process for individuals who have not yet been invited to apply.

Sincerely,

Elizabeth Stone
General Secretary
National Council of Churches in Australia

This submission has been prepared and drafted by the members of the Australian Churches Refugee Taskforce (ACRT).

Case Studies

Case Study 1: *Leila's Story

Leila*, her husband and five children arrived in Australia from Iran in 2013. They fled Iran, looking for safety, following the persecution of several of her family members, including the death/murder of her father. She remembers many incidents of harassment and intimidation by the Iranian authorities in her childhood home. "My kids are all that matter to me, keeping them safe with a normal life like everyone else here." She still has a deep-seated fear when she sees police or soldiers. She finds interview settings particularly intimidating.

Currently, Leila, her husband and four of her children are on a Bridging Visa E. The Federal Circuit Court and Family Court recently rejected her application to consider if there was a flaw in the legal process. Since then, they have only been granted a 6-month visa which they have to reapply for every 6 months. This means two weeks without work waiting for the new visa. As well, each time they re-apply, they have to wait, sometimes up to four months, for a new Medicare card. This is putting extreme pressure on Leila's family who need medications (her son's asthma), a psychiatrist (her husband's mental health needs) and regular medical procedures (her iron infusions). Leila spends a lot of time on the phone trying to speed up the process as she does not have the money to pay and wait for a refund.

Her first daughter has a permanent visa. This daughter initially made a separate application from her family as she turned 18 not long after their arrival. The reasons she gave for seeking asylum were the same as her family's, but the outcomes were very different. As Leila does not know why, this adds extra stress. Leila said that, in her initial interviews, she was very nervous and couldn't think clearly. Her anxiety and memory lapses meant she felt she couldn't tell her story fully and clearly. She said she feels very guilty that her lack of clear memory may have contributed to the negative result.

Leila has sole financial responsibility for her family as her husband, previously "a strong man", suffered a work injury and is not allowed to drive. Now, he is suffering from mental health issues, rarely leaving his room. Leila said he sits with his head in his hands most of the time. She works multiple casual jobs in aged care, day and night, driving to different parts of Melbourne, with little rest between her day and night shifts. As she said of her contribution to Australian society: "Since 2013 till now, we do everything right here. I have been working hard and paying taxes". This is on top of caring for her family and running the household. She tries not to show the pressures on her. There are always huge financial pressures, including tens of thousands of dollars in legal fees. She hides her suffering inside from her children. She tries to keep them optimistic, saying "Everything is going to change, maybe next year".

With their current visa, her children have no tertiary study rights, nor can they apply for scholarships. This has been devastating for her eldest son who finished secondary school last year, hoping to go on to university to study to be a construction manager. Leila said that, for the past four years and all through COVID, he studied 6-7 hours a day, highly motivated and very disciplined. He had “a big imagination”. Now, deprived of study rights, he is depressed, thinking it was all futile, with no hope of gaining the future he had worked so hard to achieve. He could not join his school friends who went to Bali to celebrate completing VCE and who are now starting out on a new pathway. This is having a ripple effect on the younger children who say it is pointless making the effort to study. Leila thinks it is unfair that her children are punished, their futures stolen, for the decisions their parents made to find a safe place for them. Leila explains that nobody would choose such a dangerous journey, nobody would do it if there was another way.

This story shows so many flaws in our asylum seeker system, its policies and processes. It shows the daily psychological and financial costs on individuals and families. It shows the slow deterioration of health and hope. It shows how ‘the system’ creates serious mental health issues for young and old, killing aspirations and motivation. It shows the huge price and losses of accumulated, multiple injustices.

The proposed new laws threaten to further marginalise Leila by forcing her removal or punishing her for failing to cooperate in doing so. Knowing she has genuine fears for her safety if she were to return to her country of origin, and the horrifying impacts this could have on family separation.

*Leila is not her real name. Her name has been changed for reasons of privacy.

Sister Brigid Arthur - Joint Coordinator Brigidine Asylum Seeker Project

Case Study 2

In March 2024, while conducting an Emergency Relief Assessment for a woman seeking asylum, Karen found herself immersed in the poignant narrative of her client's struggles. Karen explained that she always had to write a few notes as to why they were providing financial support to people, and she asked the woman to explain her current financial challenges.

The woman spoke of her husband's casual work, yet despite his employment, they still struggled to pay rent, utility bills, and education costs. She also lamented how food prices had increased, adding to their financial strain. To make matters worse, the family was ineligible for the SRSS program as they awaited Judicial Review after their application for a protection visa was refused through the Fast Track Visa processing system.

Karen was taken aback by what the woman said next. With a sombre expression, the woman looked at Karen and uttered, *"You know, Karen. Australia treats animals better than people. They don't like us. We can starve. But Australia wouldn't let animals go hungry."*

The new legislation threatens to further criminalise and punish these non-visa holders we work with.

Major Karen Elkington – The Salvation Army – Asylum Seeker & Refugee Service

**The individual's name has been omitted from this case study to protect their privacy.*

Case Study 3

*Sam, a Tamil from Sri Lanka came by boat in 2013 with his wife and 3-year-old daughter. His wife gave birth to their second child, a boy a month after while in detention. That son turned 10 last year and got his citizenship.

The family was separated, were traumatised, and eventually united and were in community detention for a year and released on BVE and were on SRSS payment, which was withdrawn, and Sam is the sole provider, he worked hard as a sole trader, to feed three children, the last child being 2 years old.

Three children attend school, the fourth child has been refused admission because they are temporary residents. All the children are very bright.

Their case is in Federal court, a date for their hearing has not yet been set, they filed three years ago. They went through fast-track process and had no chance at immigration interview or IAA review. They are hanging on the thread so to say, worried daily about the future.

If this bill passes, they could be asked to leave the country if they are unsuccessful in the Federal Court for judicial review.

They are going through hand to mouth living and the thought of returning after 12 years makes them absolutely sad, fearful and traumatised.

There is nothing for them to go to and the children have been brought up in Australia. They will be interrogated by CID and if they cannot pay the courts for leaving the country without passport and visa, they could face indefinite detention as a family, where the children will be traumatised.

Rev. John Jegasothy, retired minister of Uniting Church Australia

**Alias has been used for privacy reasons.*

Case Study 4

*Sasha, a Sri Lankan asylum seeker came to Australia by boat in 2013 and settled down working and taking part in sports. He left his wife and two sons behind as he had to flee the country in fear after receiving threats to his life.

Unfortunately, there was a brawl between two groups over a birthday party and he was accused, charged and imprisoned for 4 years, with 3 years non-parole, which he completed in immigration detention. He still maintains his innocence. His lawyers are trying to get him out on to the community on BVE, but so far that is being delayed.

He is absolutely traumatised both in prison and detention and had been on medication all these years for depression. His wife and children have been waiting to reconcile with him but have not been able to keep contact due to his circumstances.

If this Bill passes, he could be sent back because of the criminal charges against him. His life will be in danger if he goes back as Sri Lanka is not a safe country if he is returned with his criminal case and as a failed asylum seeker whose case is in courts. He would be interrogated by the Criminal Investigation Department (CID) and face the criminal courts, and later if released, he will be followed by CID as there is one CID per 4 Tamil civilians watching, apart from police and armed forces everywhere.

Rev. John Jegasothy, retired minister of Uniting Church Australia

*Alias has been used for privacy reasons.