

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

Dear Committee Secretary

I write to you with respect to the **Migration (Validation of Port Appointment) Bill 2018**. I write as an ordinary citizen who seeks justice and fairness in our legislation.

I urge you to *recommend against this Bill*, which seeks to apply retrospective validity to actions, which could otherwise be considered as human rights abuses of people seeking asylum.

Both the Standing Committee for the Scrutiny of Bills and the Parliamentary Joint Committee on Human Rights have raised serious concerns about this Bill, which has now been passed in the House of Representatives. I understand that the potential refugee status claims of 1600 asylum seekers will be negatively affected if this legislation is passed, which challenges the rule of law. These people will be forced to remain in offshore detention indefinitely.

The Standing Committee for the Scrutiny of Bills noted the following, with which I concur:

*The committee expects that legislation which adversely affects individuals through its retrospective operation should be thoroughly justified in the explanatory memorandum. Such legislation can undermine values associated with the rule of law. One such value is that persons should be able to order their affairs on the basis of the law as it stands. Retrospective legislation is often thought to be particularly problematic when affected persons have relied to their detriment on a reasonable expectation that the law on which they have based their decisions will not be altered retrospectively. Another important rule of law principle is that the governors are, like the governed, bound by the law and cannot exceed their legal authority. Retrospective validation of government decisions and actions can undermine this principle.*

In this case, not passing the Bill will allow the approximately 1600 individuals mentioned above to apply for refugee status and, if successful, be permanently settled in Australia and contribute to our ongoing economy.

An alternative action would be to pass the Bill, but not retrospectively. This would have the result of closing the ‘loophole’ for anyone arriving after the date of the Bill.

Although I personally do not support the notion of ‘stopping the boats’, the aim and deterrent nature of this policy would remain intact, whilst giving the government the chance to legitimately assess 1600 individuals whose ongoing presence is a financial and political burden to the Government, either by accepting them as refugees or finding them to not be refugees and returning them to their country of origin.

Australia is a signatory to the United Nations Convention relating to the Status of Refugees (1951) and as such it is essential that we uphold the rule of law with respect

to Migration Law and ensure that the lives of asylum seekers, which current legislation purports to save, are not disadvantaged by the retrospective application of segments of that law.

Yours sincerely

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