



Committee Secretary  
Senate Legal and Constitutional Affairs Committee  
**By Email:** [seniorclerk.committees.sen@aph.gov.au](mailto:seniorclerk.committees.sen@aph.gov.au)

22 November 2024

Dear Senate Legal and Constitutional Affairs Committee,

**RE: Migration Amendment Bill 2024**

Thank you for the opportunity to provide a submission in relation to the Migration Amendment Bill 2024 (**the Bill**).

***SCALES and the Murdoch University Clinical Program***

The Southern Communities Advocacy Legal and Education Service Inc. (SCALES) is a community legal centre working predominantly in the Rockingham/Kwinana region southwest of Perth. SCALES provides free legal advice, information and representation to people on low income and provides a state-wide service in the area of immigration. It has a strong track record in a human rights-based approach to legal practice.

For the last 25 years our service (SCALES) has represented clients in the area of migration law. We have seen firsthand the impact of rushed and politically driven legislation on our clients. Over the last two decades, policies of this and previous governments have run roughshod over our international obligations, and our claimed commitment to a fair go. They have inflicted unnecessary brutality on a group of people who have come to our shores looking for refuge. A group of people that we promised to protect when we signed the Refugee Convention.

Murdoch School of Law, in collaboration with SCALES, runs a clinical legal education program which provides students the opportunity to work alongside SCALES's legal practitioners to assist clients and contribute to law reform. This clinic has been working

in this area for two decades. While this submission was not directly prepared by our students, it is prepared on the shoulders of the huge commitment made by our students to the clients we represent, client who have faced racism and demonisation and scapegoating from both sides of the aisle over decades.

Which brings us to this bill, the *Migration Amendment Bill 2024*. This bill contains many aspects which are very concerning to us and our clients. These are three examples:

***Deporting people to unspecified third countries.***

This bill is a breach of our commitments under the Refugee Convention and the International Covenant on Civil and Political Rights because it would allow a person to be sent to a third country (or face detention here in Australia). Once in the third country there is no safeguard that that person will not be returned to a country in which they face serious harm, or subject to imprisonment, torture or even the death penalty. There is no requirement in the Bill that the third country would be a signatory to the Refugee Convention and other international conventions.

***Expanding the Minister's power to overturn protection findings***

Many of our client have made perilous journeys and been through the legal process here to be found to be in need of protection. Once that bar is met, they should have the ability to move past their refugee experience and begin a new life here in Australia. This legislation once again puts their safety in limbo as it allows the Minister to revisit the question of whether they are owed protection. These are people who have been in Australia for years and many have family members here who are now citizens.

***Use of curfew and ankle bracelets on Bridging Visa R holders***

These measures are disproportionate and needlessly invasive. There are thousands of people released from prisons across the country that are not subject to these regimes. Therefore, the use of these measures on migrants and refugees is a racist and discriminatory act and again runs counter to our international obligations. These people are trying to rebuild their lives, find work, make a home and build connection to community. These measures directly undermine these efforts and further isolate and demonise them. If the intention of these measures is the safety of the Australian community, a better approach would be to provide support services to those released so they can become contributing members of the Australian community.

The impact of the Bill on our clients will be extremely negative, once again subjecting them to invasive measures, undermining the tentative safety they have sought here in Australia, for example:

***This Bill risks putting people at harm and tearing families apart***

- At a time when people are seeking to rebuild their lives, the Government is putting roadblock after roadblock in their path.
- The Albanese Government should be supporting people to rebuild their lives in the community, not subjecting them to further unnecessary punishment.
- If passed, this Bill will see families permanently torn apart and people uprooted from their communities here in Australia.

***This Bill does not protect the rights of children***

- Contrary to our obligations under the Convention on the Rights of the Child, this Bill does not protect the rights of children
- It is possible that a child who has Australian citizenship could have their parent deported away from them and it is possible for children to be deported to a country where they would face danger.

***This Bill is discriminatory***

- This sends a message that if you are born elsewhere, you will be treated differently.
- No matter where we were born or where we come from, everyone has the right to be protected under the law. This is a shameless attempt to stoke fear and create division within our community
- This bill undermines the 'fair go' principle that Australians hold so dear.

Finally, we would make the point that this bill is absolutely unnecessary. In fact, it appears to be more about scoring political points than any beneficial effect on Australia society. We need to move to more inclusive practices which support people, even those who have committed offences, to become contributing members of the Australian community.

Furthermore, we ask that you reject this bill because it is unprecedented, unjust and works to undermine the rule of law. As someone who cares deeply about the rule of law, I would like you to work towards restoring the confidence of the public (and my law students) that the operation of government in Australia is fair, does not discriminate and works for the benefit of the whole community.

Further evidence of the disingenuous nature of this Bill, is the broad indemnity it gives to the Australian government from liability in regard to the harm caused by its provisions. It stipulates that there is no civil liability for any action of the Australian government or its officers for any harm caused by their action. This seems to indicate an awareness that the Bill ***will cause harm***, this awareness is hardly surprising in light of the experiences of offshore processing that are already on the record.

**We ask the Senate Committee to recommend that the Bill not be passed.**

Should you wish to discuss any of the content of this letter, please do not hesitate to contact me.

Yours sincerely,

Anna Copeland  
Associate Professor and Clinical Director  
SCALES Community Legal Centre and  
Murdoch School of Law and Criminology