

**Subject:** Submission to Senate Legal and Constitutional Affairs Committee RE: Australian Border Force Bill 2015 and the Customs and Other Legislation Amendment (Australian Border Force) Bill 2015  
**Date:** Friday, 3 April 2015 1:37:58 AM

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Dear Secretary,

**Re: Submission to Senate Legal and Constitutional Affairs Committee RE: Australian Border Force Bill 2015 and the Customs and Other Legislation Amendment (Australian Border Force) Bill 2015**

I would like to make the following submission to the Senate Legal and Constitutional Affairs Committee. As an Australian citizen, I am very concerned that the Australian Border Force Bill 2015 and the Customs and Other Legislation Amendment (Australian Border Force) Bill 2015 gives enormous amounts of unchecked power to the Minister for Immigration and the proposed Border Force Commissioner. Additionally it circumvents the rule of law and opens opportunities for human rights abuses and crimes to go unreported.

Having worked with refugees for the past 3 years with the refugees who come to Australia by boat - I have met hundreds of refugees. Right now I am unable to work as I have heard first hand so many torture experiences from refugees that I am somewhat incapacitated. In the jargon of the helping social worker world – I have vicarious trauma.

I want to recount some of these stories so that you can take into account how cruel it is to treat such tortured and damaged people in the way this Government and this Bill intends. These people have not left their country, their family and all they know and love behind, so that they can drink lattes and shop at fancy retail stores. In the main - they have fled for their lives. To try to live and not to die at the hands of their persecutors.

Historically people who arrive by boat in Australia have a 90 – 94% success rate for being assessed as a refugee and being owed a Protection Visa. It is not illegal to seek asylum. This is a lie the government has promulgated so that the public accepts their diabolical treatment of these people, people like me.

I have heard first hand scores of torture stories. Please imagine for a moment you are a Hazara person from Afghanistan and have seen all the members of your family brutally killed in front of you by an (government) authority... they were each shot in the head, you were spared, as they know witnessing this will affect your mental health for the rest of your life; surviving this is its own torture.... or

Imagine you are from Iran and were imprisoned for being a critique of the Government there. In prison you were hung by the skin and muscle on your back from a huge meat hook in a jail for hours, and the authorities did this to you every now and again, irregularly

– you don't know when they will come to get you – but once a week they come; or

...you are in an army internment camp in Sri Lanka, because you are a Tamil person, your entire family was killed in bomb blast. You fled and were captured by the Sri Lankan army. You were interned for 7 years in a camp, and you have been raped by 15 men for 3 hours in a dark room with cloth stuffed in your mouth so you can hardly breathe, and this happens on a regular basis and you cannot leave as you are a prisoner. When you ask for water - you are given urine from a soldier's bladder – and you have to drink it or you will be beaten. These are some of the stories I have heard. These are what the people we treat so badly have endured, only to be further persecuted here by this government.

Of particular concern is that, if passed into legislation, these Bills will:

- Give the Australian Border Force Commissioner complete control of the operations of the Australian Border Force, responsible only to the Minister for Immigration.
- Grant the Border Force Commissioner the power to do anything considered necessary or “convenient” to perform his or her duties.
- Allow the Minister to give directions to the Border Force Commissioner with no obligation to declare these directions to the House of the Parliament until fifteen sitting days after the direction has been given.
- Grant the Minister power to make rules prescribing the carrying out of the Act wherever required, necessary or “convenient”.
- Require the Border Force Commissioner and all staff (including people who work for agencies under the public service definition; people who work for State and Territory Government Departments; people who work for foreign governments; and people who work for public international organisations) to make and subscribe to an unspecified oath.
- Impose a jail term of two years on anyone who discloses protected information, unless the information disclosed has been requested by a tribunal or court. Unless there is opportunity to reveal serious problems, no court or tribunal will be able to investigate. Human rights abuses, and breaches of other areas of law, will not be brought to light.
- Refuse workers the right to act according to conscience and the law as it exists in other areas. The Border Force Bill states that the Immigration and Border Protection workers must comply with any written directions of the Australian Border Force Commissioner and the Border Force Secretary.
- Prevent people who work for agencies under the public service definition; people who work for State or Territory Government Departments; people who work for foreign governments; people who work for public international organisations; consultants and contract workers; and people who work for companies which are subcontracted to

provide services from following the directions and policies of their own companies and organisations. This will prevent them from effectively fulfilling their roles.

- Give the Secretary or the Australian Border Force Commissioner power to terminate the engagement of a person as a consultant or contractor if the person fails to comply with a direction under the legislation. This will limit the capacity of organisations to provide welfare services to detainees in immigration detention facilities, for example.
- Remove access to the Fair Work Act 2009 for staff who have been unfairly dismissed.
- Deem incriminating documents, test results and information to be inadmissible as evidence in legal proceedings.
- Allow Border Force workers, who kill or seriously injure a person while under the influence of drugs or alcohol, to remain employed and to avoid the scrutiny of the courts.

I believe that the Australian Border Force Bill 2015 and the Customs and Other Legislation Amendment (Australian Border Force) Bill 2015 are inherently dangerous and ask the Senate Legal and Constitutional Affairs Committee to reject them outright.

Yours sincerely

Andrea Callaghan