

# Dissenting Report by the Australian Greens

1.1 The committee's inquiry into the Migration Amendment (Complementary Protection and Other Measures) Bill (the bill) received 20 submissions from lawyers and experts in immigration. All submissions raised serious concerns regarding this bill, with the exception of the submission made on behalf of the government by the Department of Immigration and Border Protection.

1.2 Based on the evidence provided and concerns raised by these experts, the Chair's report recommends that this bill be passed, subject to three recommended amendments.

1.3 The Australian Greens believe that the three recommended amendments do not sufficiently address the serious problems identified with this bill.

1.4 The Australian Greens are concerned that the bill seeks to severely limit the scope of complementary protection available to people seeking refuge in Australia. With changes made to Australia's refugee protection framework in late 2014 following the passage of the *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014*, the Australian Greens believe that the complementary protection framework provides an essential safety net to ensure that vulnerable persons seeking asylum are offered protection.

1.5 The Australian Greens note the historical context of this bill; specifically that it represents the third attempt by the government to significantly weaken Australia's protection obligations.

1.6 The Bill in its current form would modify several features of the existing complementary framework.

1.7 In particular, the Australian Greens are concerned that:

- the proposed subsection 5LAA(5) would allow the decision maker to place the onus of avoiding significant harm on the applicant, even in situations in which the risk of harm is objectively high;
- the bill introduces 'particular risk' as an additional requirement: that the applicant be at a greater risk than the rest of the population in order to be eligible for complementary protection in Australia; and
- proposed paragraph 5LAA(1)(a) of the bill shifts the onus onto the applicant to establish that they face a real risk of significant harm in all areas of the country in order to engage Australia's protection obligations. This would require an applicant to distinguish the risk that they would suffer harm in a particular place from the risk faced by other people in that place, including areas that the person may have little or no knowledge about.

## **Conclusion**

1.8 The Australian Greens are concerned that the Chair does not appear to have adequately responded to or addressed the concerns raised by the vast majority of experts regarding this bill. The Australian Greens recommend that the bill be rejected by the Senate.

### **Recommendation 1**

**The Australian Greens recommend that the bill be rejected by the Senate.**

**Senator Sarah Hanson-Young  
Senator for South Australia**