

Dissenting Report by the Australian Greens

1.1 The committee's inquiry into the Migration Legislation Amendment (Regional Processing Cohort) Bill 2016 (the bill) received 84 submissions from legal and immigration experts. All of these submissions raised serious concerns regarding this bill. All witnesses at the public hearing also criticised the bill, with the exception of those representing the Department of Immigration and Border Protection.

1.2 Despite the evidence provided and concerns raised by submissions and witnesses, the report recommends that this bill be passed. However, the Australian Greens believe that the recommendation does not sufficiently address the serious problems identified with this bill.

1.3 The Australian Greens are concerned that the bill is punitive, will impact negatively on families, and that the Government has not demonstrated the bill is necessary to deter asylum seekers. There is no evidence that this bill will actually achieve its stated objective.

1.4 The bill arbitrarily discriminates against the cohort on the basis of their mode of arrival, which they may have had little choice over. The bill contravenes numerous human rights and international obligations to which Australia is a signatory.

1.5 The Australian Greens note the issues raised by witnesses about the public interest test and capacity of the Minister to 'lift the bar' in individual cases. We do not believe that this is sufficient to satisfy Australia's international human rights obligations. The public interest is not defined in the bill, and there is no duty on the minister to exercise this power. The bill provides yet another non-compellable and therefore non-reviewable discretionary power to the Minister.

1.6 The Australian Greens reject the view of the Government that a statement by the then Prime Minister on 19 July 2013 can be used as a basis for claiming that the bill is not retrospective. This is an arrogant and disrespectful claim to make in proposing a bill that will have significant repercussions for this cohort of individuals.

1.7 The bill has the potential to further separate families and sever support networks of people who have already been significantly damaged, both mentally and physically, by Australia's policy of indefinite offshore detention.

Conclusion

1.8 The Australian Greens find that the report has not adequately responded to or addressed the concerns raised in all 84 submissions received on this bill.

1.9 The Australian Greens find that the bill contravenes numerous international rights including the rights to non-discrimination and equality, and the rights of the child and protection of the family.

Recommendation 1

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

**Senator Nick McKim
Senator for Tasmania**