

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S PORTFOLIO

Program: Australian Human Rights Commission

Question No. BE16/005

Senator Hanson-Young asked the following question at the hearing on 5 May 2016:

Senator HANSON-YOUNG: Are there any obligations that Australia has to the widow of Omid to ensure that her liberties are protected—that her rights to be able to communicate to her family and friends, in what must be a tragic, obviously horrifying and deeply sad situation—

CHAIR: Well, you can leave the editorial out. Is that the question?

Senator HANSON-YOUNG: Are there obligations that we have to ensure that she is now cared for properly while she remains in Australia?

Prof. Triggs: Senator Hanson-Young, I really would need to take that on notice, because I am unsure of the status of this young woman. But I think, obviously, if she is within the jurisdiction of Australia, she would have all the protections of any other resident or citizen or person who is within Australia's jurisdiction. That is a broad answer. Certainly she is to be treated in a non-discriminatory way and have, if she is a refugee, all the rights. I am afraid I can only give you a very general answer, and, if I may, I would like to look at that situation. I have been reading the same, or similar, reports. I would be very happy to come back to you with the kinds of legal responsibilities that we owe to this young man's widow.

Senator HANSON-YOUNG: Thank you.

The answer to the honourable senator's question is as follows:

Australia's international human rights obligations apply to any person within Australia's territory. For example, under the *International Covenant on Civil and Political Rights* the Commission considers that Australia has obligations to ensure the rights contained in that Covenant to all individuals within Australia's territory and to all individuals subject to Australia's jurisdiction.ⁱ As such, Australia would have the same obligations towards a person brought to Australia from Nauru temporarily as it would towards any other person residing or present in Australia. These include rights relating to protection of and non-interference with the family.ⁱⁱ

ⁱ *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976), art 2(1).

ⁱⁱ *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976), arts 17(1), 23(1); *International Covenant on Economic, Social and Cultural Rights*, opened for signature 16 December 1966, 993 UNTS 3 (entered into force 3 January 1976), art 10(1).