

Committee Secretary
Senate Legal and Constitutional Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600 Australia

Submission to Senate Legal and Constitutional Committee
enquiry into **Migration Amendment (Designated Unauthorised Arrivals) Bill**

I think this is bad legislation.

I work as a Christian Brother with refugee and recent arrival youth in the Western Suburbs of Melbourne, as Co-ordinator of the Homework help programs of Edmund Rice Refugee Services. However I write as a private person who has had grave concerns for many years about Australia's attitude towards asylum seekers and the so-called Pacific Solution I and II. I was working in Tanzania, East Africa when the Tampa incident and the Pacific Solution mark I occurred. I remembered my embarrassment as with African colleagues, we watched the footage on television, and I had to try to explain what was happening. This was in Tanzania which then and now) has upwards of half a million refugees and asylum seekers.

I am very concerned about this legislation for a number of reasons:

1. If every country turned away Asylum seekers the way Australia plans to by this legislation, then Asylum seekers would have nowhere to go. I am embarrassed that Australia is leading the way on this self-centred fortress type of approach. It is reminiscent of the state of affairs that caused the rejection of Jewish asylum seekers from Nazi Germany in the "voyage of the damned" of the *SS St Louis* in 1939.
2. I am concerned that we will once again be opening ourselves to detaining children in inappropriate conditions, despite assurances made by the Australian Government in 2005.
3. I am concerned that we have learned nothing from the last decade's experience of detention centres as BAD places to be. The overwhelming evidence of several enquiries and investigations is that Detention is harmful to the mental health of children AND adults.¹
4. I am concerned about the use of the term "unlawful" or "unlawfully" even in the title of this inquiry. It is NOT unlawful or a crime to seek asylum in another

¹ In its *National Inquiry into Children in Immigration Detention Report- A Last Resort?*, tabled in Federal Parliament on 13 May 2004, the Commission found Australia's immigration detention policy has failed to protect the mental health of children, failed to provide adequate health care and education and failed to protect unaccompanied children and those with disabilities.

- country. Article 14 of the Universal Declaration of Human Rights to which Australia is a signatory, states that “Everyone has the right to seek and enjoy in other countries, asylum from persecution.”
5. I am concerned that the legislation, by detaining asylum seekers on Pacific island nations, in effect causes asylum seekers to be punished merely for seeking asylum from persecution.
 6. I am concerned that the rhetoric of government ministers around this legislation seems to portray us wealthy, fortunate safe Australians as somehow being “Victims” at the hands of people seeking asylum in our country.
 7. I am concerned that Australia is not pulling its weight in addressing issues of refugees and asylum seekers around the world: we are currently 32nd on the list of countries that have refugees, and 22nd on the list of countries accepting asylum seekers.² [For comparison, while Australia in 2004 had 5022 asylum seekers, Canada had over 27,000, and Belgium had over 22,000; Tanzania with a population of about 35,000 people has over 600,000 refugees! Australia, among its 13,000 Humanitarian refugees in 2005, accepted a limited numbers of these (mainly Burundian and Congolese) refugees from Tanzania.]
 8. I am concerned that in off-loading asylum seekers to Pacific nations, we are making it difficult if not impossible for asylum seekers to access their legal rights, and to access proper independent legal advice. We saw almost blanket restriction of visitors and access to and from refugees who were detained in Nauru under Pacific Solution Mark I
 9. I am concerned that this Bill is criticised by Australia’s Catholic Bishops: “The Bishops have written to Prime Minister John Howard urging him to drop proposed laws currently before parliament to process all asylum seeker claims offshore. The *Sydney Morning Herald* reports that the letter, which acknowledged the government's need to protect Australia's national security, pressed the government to consider the effects the legislation would have on genuine asylum seekers.”³
 10. I am concerned that this Bill is criticized by the United Nations Commission for Refugees: The UNHCR Geneva⁴ has said that the Australian policy "would be an unfortunate precedent, being for the first time, to our knowledge, that a country with a fully functioning and credible asylum system, in the absence of anything approximating a mass influx, decides to transfer elsewhere the responsibility to handle claims made actually on the territory of the state.
 11. I think it is ludicrous to “excise” Australian territory and to pretend that it is not Australian territory for the purposes of immigration legal fiction.
 12. I am puzzled why the planned legislation would not apply to asylum seekers arriving by some other means other than by sea. Presumably we have already blocked any other way of them coming?

² UNHCR Website – UNHCR report on 2004 Global Refugee Trends

³ Catholic News 18/5/06 quoting *Sydney Morning Herald* 17/5/06

⁴ UNHCR spokesperson Jennifer Pagonis, at the press briefing, on 18 April 2006, at the Palais des Nations in Geneva.

I urge the committee to reject this legislation.

Yours sincerely,

Sean McManus
Sunshine
Victoria