

**Submission to the Inquiry into the provisions of the Migration Amendment  
(Designated Unauthorised Arrivals) Bill 2006**

By Lorien Vecellio  
Clayton VIC

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**To whom it may concern:**

This submission outlines five major problems that would be highly likely to arise if the proposed Bill is passed in its current form:

- i) A large number of asylum seekers being denied access to the legal review mechanisms that would be available if their cases were processed on the mainland. The Migration Act does not provide for the Refugee Review Tribunal (RRT) to review asylum cases that are processed offshore. If this Bill had been introduced in 1993, the net effect would be that almost 8000 genuine refugees would be deemed *not* to be genuine refugees, and therefore denied asylum in Australia. This is because the RRT has overturned the primary rejection decision made by the Department of Immigration and Multicultural Affairs (DIMA), in 7885 cases since 1 July 1993. These people have since been granted protection visas, but would not have been granted protection if they were processed offshore. In addition, if the asylum seeker is detained in one of the offshore processing centres located in other countries (eg. Nauru and Papua New Guinea), they have no access to judicial review of their case.
- ii) Asylum seekers in offshore processing centres have poorer access to legal representation. In the past, it has proven very difficult to get defence lawyers onto the island state of Nauru, to represent asylum seekers detained there. Lack of adequate legal advice and representation will further diminish the probability that most genuine refugees will be correctly identified as such.
- iii) Even for those asylum seekers who are deemed to be genuine refugees, there will be no guarantee of resettlement in Australia if their case was processed offshore. In fact the Howard government has indicated a strong preference for finding third countries to resettle many of these refugees, rather than resettling them here. This raises the prospect of spending an indefinite period of time in

the offshore processing centre even after being deemed genuine refugees, waiting for a country to resettle them.

- iv) There is no assurance that children will not be detained in the offshore processing centres. The suggestion that they will only be detained during night time hours, offers no reassurance to those children or their families, and breaches the requirement under Australian law to only detain children as a matter of last resort.
- v) Members of the Australian public are generally unable to visit asylum seekers who are held in offshore processing centres. This deprives asylum seekers of an important acknowledgment of their human value and the fact that many Australians are ready to welcome them. I have personally visited many asylum seekers in mainland detention centres, who I would not have met if they were being processed offshore. Moreover, media access to offshore processing centres is extremely limited, further denying asylum seekers any voice or visibility and concealing their suffering.

Please take these five concerns into consideration in the Inquiry.

Sincerely,

Lorien Vecellio