

FAO Committee Secretary  
Senate Legal and Constitutional Committee  
Department of the Senate  
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Parliament House  
Canberra ACT 2600

In the  
aftermath of the  
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From: Dianne Hiles, Cremorne, NSW

**Re: Inquiry into the provisions of the Migration Amendment  
(Designated Unauthorised Arrivals) Bill 2006**

Dear Sirs,

I would like the committee to take the following submission into consideration in the course of its deliberations on the proposed Migration Amendment Bill.

I am a long term supporter of Amnesty International and have been actively involved in ChilOut's campaign for the release of children and their carers from Immigration Detention Centres but I write as a private, very concerned, citizen.

Detention of Children

- When children were released from Detention Centres in July 2005, our Migration Act was codified, finally in accordance with Article 37(b) Convention on the Rights of the Child, to state that Children should only be detained as a last resort
- Around that time the Prime Minister went on public record as saying it had been a mistake to detain children.
- Why was it a mistake then but is not a mistake now? Why, less than a year later, are we again altering our Migration Act to mandate the detention of children as a matter of first resort?
- After the HREOC report in the Human Rights violation, the Stolen Generation, it entered the Australian psyche that you don't separate children from their parents. It damages them. Likewise everybody now knows that locking up innocent children indefinitely also damages them.
- The wider community now realises the extreme importance of the early childhood years - that **Every** childhood is precious.
- The harm done to children in previous immigration detention regimes is well documented. Nauru was notable then, in its remoteness, harshness of conditions and inability to be properly reviewed. It will not be different this time around. It cannot be allowed to happen again.
- The suggestion that only locking up children at night time somehow does not constitute detention insults both our intelligence and the human dignity of those we would detain.

Say No To Violence

- Of this Bill, Immigration Minister, Amanda Vanstone has asked us to consider what would happen were Australia to be used as a base for protests about domestic issues in other countries.

- The federal government is presently running a campaign “Australia Says No To Violence”. Are we to restrict this only to *our* domestic violence? We are exhorting fellow Australians not to be too timid to intervene in cases of domestic violence in their neighbourhood, yet what exactly are we proposing to do with this bill?
- How is condoning our nearest neighbour perpetrating violence against its own citizens any different from not reporting screams coming from the next door unit?

### Human Rights in Indonesia

- Many aspects of Indonesia’s human rights record are woeful, none more so than its lamentably poor record of prosecuting the perpetrators of the 1998-98 massacres in East Timor. 185000 deaths in East Timor have been substantiated and it is suggested that including those unsubstantiated, the number is in excess of one quarter of a million<sup>1</sup>.
- That is, 250,000 souls met their premature and grisly end on our doorstep. In response to public outcry we eventually reacted and despatched troops to restore law and order.
- We have not continually agitated for the prosecution of the members of the Indonesian military who committed these atrocities.
- Reportedly many of those same militia are now operating in West Papua. Do we have to wait for another human tragedy of epic proportion to occur before we intervene?  
*Amnesty International’s country report details cases of arbitrary arrest, extra-judicial killing, torture, and cruel and degrading treatment of those suspected of separatist activities.*<sup>2</sup>
- The population of West Papua is 1.8m, comprising 900k indigenous of Melanesian origin and 900k Indonesians who have been resettled under the policy of transmigration.
- Not only could (nor should) this small population not withstand a genocide on the scale of East Timor, the obliteration of its culture under the Transmigration policy in itself constitutes a breach of fundamental human rights under the Declaration on the Rights of Indigenous People. We take no steps to safeguard the West Papuan heritage.
- The actions of the Fuzzy Wuzzy angels in supporting Australian troops in their resistance of the Japanese advances in 1942- 43 have been immortalised. That immortalisation continues in the recent release of the film “Kokoda”. If West Papuans are not direct descendants of the Fuzzy Wuzzy angels they must be perceived as close relatives.
- Australians are sensible of the history of the relationship between us and the inhabitants of the island. They are not “spooked” by “these people” coming to us as they seek protection from persecution.

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<sup>1</sup> Sister Susan Connelly, of the Mary **McKillop** Institute of **East Timor** Studies, May 2006

<sup>2</sup> <http://web.amnesty.org/library/index/engasa210322002>

- Irrespective of the security considerations, many fair minded Australians would rather we stood up to Indonesia than kow-towed at the first hint of displeasure by legislating to excise the entire mainland of Australia from the Migration Act.

### Background Instruments

- 1948 Universal Declaration of Human Rights Ratified by UN on 10 December  
Article 14 – all people have the right to seek and enjoy asylum in other countries
- 1954 Australia signed the Refugee Convention, agreeing to help asylum seekers
- 1990 Australia signed CROC - Convention on the rights of the Child  
Article 3 All decisions made about children must be in their best interest  
Article 37(b) Children should only be detained as a last resort  
Article 40(4) Children should only be detained for the shortest possible time

### Conclusion

- Not only did Australia freely sign these conventions we were instrumental in the drafting of the first two in the aftermath of the atrocities committed in WWII.
- Under the spirit of these instruments we should be
  - calling upon Indonesia
    - to treat all its citizens with **inherent dignity** and extend to them the **equal and inalienable rights** due to all members of the human family
    - bring to account all those responsible for the perpetration of barbarous acts
  - assuming our responsibilities as a major player in the region
  - setting an example for other countries to follow.
  - **striving by teaching and education to promote respect for Universal rights and freedoms**
  - by progressive measures, national and international, securing their universal and effective recognition and observance,
- This policy is not progressive. It is a knee-jerk reaction. It is badly thought out and its motivation highly questionable.
- If it appeases Indonesia at all it will not be on a long term basis. Improvements made in the wake of the Palmer and Comrie reports were just coming into play. We are caving in at the first objection and choosing to go back to our bad old ways – or worse.
- The cost of our policy yo-yo'ing will be damaging the lives of fellow human beings, ones we have a responsibility to help.
- Children are far too precious to be used as pawns in games of this sort
- Simply, we do not want a law that locks up children.

I appeal to you to ensure we do not get one.