

Australian anti-refugee measures flout international law

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Human rights organisations, civil liberties lawyers and church groups have condemned as “unacceptable” and a “direct contravention of international obligations” anti-refugee measures that the Australian government is pushing through parliament this week with the help of the Labor Party and the Australian Democrats.

Both measures—the Border Protection Bill and new refugee visa regulations—breach the 1951 international Refugee Convention, according to Amnesty International.

In the first place, the regulations will discriminate against so-called boat people and other refugee applicants who arrive without valid visas. Even if they satisfy the stringent tests for permanent refugee status, they will be given only three-year temporary visas. They will have no welfare entitlements; no rights to apply for other family members to join them; and no automatic Medicare health coverage.

In addition, they will have no right to travel outside the country; their ability to work will be hampered by their temporary visa status; and access to tertiary education will be denied by the requirement that temporary visa holders pay full fees.

“Illegal” refugees and their families—who have so feared for their lives and future that they have fled their homelands, travelled thousands of kilometres in dangerous conditions, and exhausted their meagre life savings to make their way to Australia—will be punished by policies designed to confine them to poverty, ill-health, unemployment, loneliness and inadequate education.

Labor governments have in the past confined particular categories of refugees to short-term “rolling” permits, but this is the first time that such discrimination has been applied on the basis of mode of entry into the country. The provisions flatly infringe Article 31 of the Refugee Convention, stipulating that governments shall not penalise refugees on account of their illegal entry.

Moreover, Article 34 requires governments to assist refugees to assimilate into society. Other Articles insist on access to education, freedom of travel and public relief and assistance comparable to that afforded to citizens.

Secondly, the Border Protection Bill flouts one of the most fundamental tenets of international refugee law—that

governments must not send asylum-seekers back to face danger and persecution. This rule against “refoulement” is enshrined in Article 33 of the 1951 Convention.

The Howard government's Bill will allow the immigration and military authorities to chase, intercept, turn back or board and seize sea vessels and aircraft suspected of carrying refugees, as soon as they near Australia's territorial waters. Armed officers will have the power to arrest and detain their crews and passengers. In some circumstances the Bill seeks to assert these powers on the high seas, seemingly to ensure that asylum-seekers are driven back into the arms of regimes from which they are fleeing.

One certain result from the Bill will be a higher rate of fatalities. Already, refugees are known to have died trying to evade detection by Australian authorities. In the worst single incident, 15 Sri Lankans died when their boat capsized off Christmas Island, a tiny Australian colony in the Indian Ocean. Another 78 people nearly perished when they landed in crocodile-infested waters on Australia's northern coast.

The legislation will make refugees more desperate to avoid discovery. It will prevent many asylum seekers, including the 1,700 who have arrived since July 1, from even applying for refugee status. It will bar any person who has a right to remain in any other country for more than seven days, from lodging an application. They will be deported as quickly as possible, in some cases immediately on arrival, without review or other rights.

Both the Bill and the regulations will apply retrospectively, affecting applications for refugee status already in the pipeline, including those of 1,650 East Timorese asylum seekers who have been in Australia for up to 10 years. Last week Ruddock cynically dropped a federal government appeal against a Federal Court ruling allowing them to stay. In effect, they must resume their applications all over again, with the government now arguing that they can safely return to East Timor.

Amnesty International's national refugee spokesperson Carolyn Graydon accused Immigration Minister Phillip Ruddock of using the recent series of arrivals of boatloads of refugees to create “panic and fear” in order to introduce the measures.

“How can the government target refugees for taking matters

into their own hands where their lives are at risk and where regular channels have been closed?” Graydon asked. “The government is choosing to attack the victims of human rights abuses while the world is doing little to prevent them.”

Graydon said the government was adopting the policies of the far-rightwing One Nation party of Pauline Hanson. “Around one year ago Pauline Hanson proposed a temporary protection regime for refugees and was condemned by both Labor and the Coalition. How is it that the government can now introduce new regulations mirroring Pauline Hanson's policies and receive the support of the Opposition and the press?”

Mary Crock, a law lecturer and author of *Immigration and Refugee Law in Australia*, denounced the government for “fanning the fears of the uninformed”. The number of people seeking asylum in Australia was small by world standards, she pointed out.

In 1998-99, just 8,257 claimed refugee status in Australia after illegal entry, and less than 20 percent were successful, compared with the 51,795 who sought asylum in Britain or the 98,644 who fled to Germany. North America received 427,135 applicants and Europe 417,400.

Crock said most of the recent arrivals to Australia came from countries such as Iraq, Afghanistan, Algeria and the Sudan, where conditions were severe. In 1998-99, about 97 percent of the Iraqi and 92 percent of the Afghan refugee claimants satisfied the draconian standards of the Refugee Convention, which denies entry to those fleeing from civil war or economic oppression and instead requires asylum-seekers to prove “a well-grounded fear of persecution”.

Ruddock is fanning the most xenophobic and nationalist sentiments, evoking images of a mass invasion. “We are facing the biggest assault to our borders by unauthorised arrivals ever,” he said in a media release on November 18. Most of the commercial and government-controlled media has joined the hysteria, routinely speaking of a “flood of boat people”.

Every effort is being made to demonise and depersonalise the asylum-seekers, and present them as “enemies” who threaten ordinary working people. The truth is that these are, almost invariably, ordinary workers and peasants, often with children, who have been driven to desperate escape bids by wars, civil wars, communalism and impoverishment.

Even the government's own Human Rights and Equal Opportunities Commission has called for more leniency in the laws relating to the 77 children born in detention in Australia since 1989, including one born this month in the tent city detention camp at Derby. Commission president Professor Alice Tay said these children have basic rights and could suffer political and social discrimination if returned to their parents' country of origin.

Media agitation has focused on so-called people-smugglers—those profiting from the refugees' misery by selling them fake identity papers and perilous voyages, often in unseaworthy boats. “Payoffs grease migrant trail” declared one

typical headline in the *Sydney Morning Herald*. Often the refugees are lumped together with these shady business operators.

But not one media report has raised the obvious fact that this lucrative trafficking in human life has only emerged because governments around the world, including the Australian, have shut their doors to the millions of displaced people now seeking refuge internationally. If working people had the same rights as the wealthy to travel and reside where they chose, there would be no need for “people-smugglers”.

One section of the media has been somewhat reluctant to join the anti-refugee frenzy—the newspapers owned by Rupert Murdoch. His *Australian* newspaper ran an editorial last Saturday opposing the new refugee visa regulations. Murdoch's position is that more efficient means are available to crack down on refugees—means that will not so crudely damage the “humanitarian” image that the Australian political and business establishment has sought to cultivate in recent times to further its trading interests in Asia and military interventions, such as in East Timor.

For their part, the Labor leaders have sought to outdo the government in promoting chauvinism. Opposition immigration spokesman Con Sciacca has attacked the government for not taking stronger action to halt refugee boats. He has called for the establishment of a “dedicated coast guard” to intercept and repel vessels.

One of Ruddock's advisers is Gerry Hand, who as Labor's immigration minister in the late 1980s initiated what has become an evermore-draconian process of extinguishing the democratic and legal rights of asylum seekers. Hand has personally endorsed the government's plans, urging “everyone in parliament to support this, because if they don't they will be giving succour to international people-smugglers”.

While the Australian Democrats have criticised the refugee visa regulations for being ineffective, costly and in contravention of international law, they have lined up behind the Border Protection Bill. Their spokesman, Senator Andrew Bartlett, has protested against the government's claims that the Senate was blocking its legislation. “The Democrats have already ensured the passage of laws significantly increasing penalties on people smugglers and the powers of officials to detect the organisers,” he said.



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