

Australia to effectively repudiate international refugee law

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Legislation introduced into the Australian parliament last week will make explicit the trashing of international refugee law by successive Australian governments, Labor and Liberal-National alike.

Since the infamous turning away of the 433 Tampa refugees in 2001, who were forcibly transported by the Australian navy to be detained indefinitely on the remote Pacific Island of Nauru, it has been bipartisan policy to defy the asylum requirements of international law in an attempt to stop refugees getting to Australia.

That contempt for fundamental legal and democratic rights is now to be formally incorporated into legislation. The 112-page bill features clauses that specify that an asylum seeker who has been denied a visa can be removed from Australia “irrespective” of any “non-refoulement obligations.” These are obligations under the Refugee Convention and the Convention Against Torture.

The Australian government is effectively repudiating the central principle of the Refugee Convention—that people seeking asylum must not be “refouled” (deported) to countries where they face the danger of death or other forms of persecution. The government is also overturning the ban on removing people to face the likelihood of torture.

The bill further explicitly authorises the immigration minister to disregard Australia’s “international obligations” in ordering the interception of refugee boats and the removal of their passengers to anywhere in the world. No such decision would be invalid “because of a failure to consider Australia’s international obligations.”

Moreover, “the rules of natural justice”—which give people the right to be heard before official decisions are made against them—“do not apply.”

This would legalise operations modelled on the

treatment of 157 Sri Lankan Tamil asylum seekers who were imprisoned on an Australian naval ship on the Indian Ocean for nearly a month during July in an unsuccessful bid to hand them back to Sri Lanka or India.

The explanatory memorandum attached to the bill states that it is not the government’s intention to “resile from Australia’s protective obligations” under the Refugee Convention, but rather to “codify Australia’s interpretation of these obligations.”

That flies in the face of the bill’s unequivocal language dismissing Australia’s “international obligations.” Moreover, for the first time, the legislation drops the Refugee Convention’s definition of “refugee” and replaces it with a more restrictive one.

The Convention already excludes most people commonly regarded as refugees—those fleeing wars, civil wars, famines, natural disasters and oppressive dictatorships. It only protects individuals who have fled persecution for one of five reasons: race, religion, political opinion, nationality or “membership of a particular social group.”

The bill goes further by excluding (1) all Palestinians, (2) those who cannot prove they have a “real chance” of persecution, (3) those who can “reasonably” relocate to safety in another part of a country, and (4) those who can “modify” their behavior to avoid persecution. These tests would, for example, require a political dissident to abandon any public activity in order to avoid persecution.

A “fast track” processing regime will be established, giving the immigration minister arbitrary power to deny visas, without any right of appeal, to anyone who makes a “manifestly unfounded claim for protection.” Other applicants may appeal, but only to a new Immigration Assessment Authority, which will review

visa refusals “on the papers” without any form of hearing.

The bill seems likely to pass with the backing of mining magnate Clive Palmer’s Palmer United Party (PUP), giving the government three of the six cross-bench votes that it needs in the Senate. Palmer struck the deal in order to create a new type of temporary protection visa (TPV) designed to exploit asylum seekers as cheap labour in remote regions of the country.

The Safe Haven Enterprise Visas (SHEVs) were proposed by Palmer, who represents a layer of mine operators and other rural employers who want fresh supplies of low-cost labour. “There are a lot of places in Australia where you just can’t get (workers),” Palmer told reporters.

Immigration Minister Scott Morrison informed a media conference that SHEV holders who work in designated zones in “regional Australia” for three and a half years without seeking welfare support will be eligible to apply for other visas “where they satisfy the relevant criteria.”

Answering questions, Morrison revealed that employers could nominate to obtain labour under this scheme. No mention was made of any guarantee of even minimum wages and conditions. SHEV holders will also be denied the right to reunite with their family or re-enter Australia if they leave to visit their family.

Another kind of TPV, limited to three years, will allow visa holders to work and apply for limited welfare assistance, while also denying them family reunion and re-entry rights. These TPV holders will never be permitted to apply for a permanent visa, leaving them forever in an insecure limbo.

The Labor Party opposition declared it had an “open mind” on the bill. Shadow immigration minister Richard Marles only criticised the package for allowing refugees any hope of eventually settling in Australia—in other words, for not being even harsher on asylum seekers.

This underscores the unity between the Liberal-National Coalition and Labor, which implemented its own draconian measures while in government to “stop the boats”—that is, bar all refugees. Labor reopened the detention camps on Nauru and Papua New Guinea’s Manus Island and declared that all boat arrivals would face indefinite detention.

Greens Senator Sarah Hanson-Young described the bill as “shocking,” but claimed that Palmer’s PUP, with whom the Greens are negotiating their own grubby deals, had simply been “played by the ruthless Abbott government.” She objected that very few refugees would meet the requirements for the SHEVs.

The Greens, who kept the previous Labor government in office as it imprisoned refugees, have no difference with the profit calculations of the Australian corporate elite, or the underlying framework of “border protection.”

As the deal with Palmer demonstrates, the scapegoating of asylum seekers as “illegal migrants” serves several purposes. One is to divert in a reactionary xenophobic direction the mounting popular opposition to growing unemployment, falling real wages and deteriorating social conditions. Another is to use selected refugees as a source of super-exploited labour.

At the same time, the overturning of international law for refugees, who are among the most vulnerable members of the global working class, sets precedents for wider use against the basic legal and democratic rights of all working people.



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