

Briefing Statement: On the Migration and Maritime Powers Legislation (Resolving the Asylum Legacy Caseload) Act 2014

Brief

In October 2014 the AASW issued a [statement](#) regarding the Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Bill 2014 in which the following points were made.

- The Bill removes the obligation under the Marine Powers Act to limit the exercise of powers in accordance with international law in places outside of Australia. Rules of natural justice will no longer apply to authorizations made under this Act, meaning the government will be unconstrained by the basic principles of justice and fairness. These amendments will have significant implications for boat interceptions and turn-backs.
- Particularly concerning are some of the fast track provisions with limited appeal rights, which could see Tamils sent back to Sri Lanka at a time when it is reported that Sri Lanka is using torture against those deemed to be political opponents or supporters of the former Tamil Tigers.
- The Bill also introduces Temporary Protection Visas (TPV), which cause acute distress for refugees who must continue to live with great uncertainty. While the AASW welcomes the decision to allow TPV holders to work and receive social security payments, it is disappointing that they will be excluded from the family reunification programs. This is particularly concerning for unaccompanied minors and families that have effectively been separated by war and other calamities.

The Bill was passed into legislation on the 5th December 2014 with a number of amendments following various concessions made to Senators on the cross benches. However the criticisms outlined by the AASW in October remain relevant. In summary this is bad legislation. As Professor Healy stated in the original statement, “These are vulnerable men, women and children whose country of origin is either persecuting them or no longer able to protect them. They need more protection under international law, not less”.

The AASW acknowledges gains made by Senators who have negotiated a commitment from the Government to release all children from Christmas Island by Christmas 2014. However, the AASW condemns the Government for using children as bargaining chips in pursuit of their inhumane policies. The AASW also notes that there are still approximately 167 children in immigration detention on Nauru.

The AASW also acknowledges and welcomes the commitment of the government to raise Australia’s refugee intake from 13,750 to 18,750 over the next four years. We note that this is still less than the 20,000 which the previous government had raised it to following the 2012 Report of the Expert Panel on Asylum Seekers (known as the Houston Report), and less than the 25,000 recommended in the recent [Australia 21 report](#).