

EXECUTIVE SUMMARY

Many in Australia have noticed that the asylum seeker policies implemented and particularly used by the current government are internationally illegal. Now, the international community are aware of this illegality. This submission gives outlines upon many aspects to where and how the illegality occurs, within the Department of Immigration's own manuals and guidelines.

While domestic legislative instruments denote areas of international law that should be highly regarded, implementing the same humanitarian objectives are not considered in the slightest. Officers within the department are continually advised to follow the Minister's own objectives.

These objectives include:

- ∞ Considering children – including unaccompanied minors – as suspicious. While the CROC is taken into account, there are many areas within the manuals and guidelines for which the Minister explicitly advises officers to regard the 'public interest' over and above that of all children within IDC's. This is even though the manuals and guidelines also claim on numerous occasions that children are not to be held in IDC's, then cannot be held in IDC's for a couple of reasons, then should only be held in IDC's with their families.
- ∞ Classifying Article 1 of the Refugee Convention as impliedly indicating the word 'territory' to mean the very small geographical area for which torture and/or trauma occurred. Even though the UNHCR classifies the word 'territory' to mean the *country* from which a refugee has come from, the government has interpreted the word quite differently from its intention. The government and court system are thereby enabled from a domestic viewpoint to send refugees back to their 'home' or 'receiving' country without any afterthought of what happens to the refugee. This gives the government carte blanche to send a refugee back to another city in the 'home' country, knowingly against the rules of many treaties, particularly in relation to non-refoulement obligations.
- ∞ The non-refoulement obligations are not considered as enacted if there is no knowledge of whether the asylum seeker is a refugee. That is, by sending the refugee back to Indonesian waters, there is no knowledge and therefore the obligations are adhered to. This is even if the refugee has a UNHCR number or it has been made clear that the refugee has suffered torture and/or trauma.
- ∞ In fact, officers can refuse a protection visa for a refugee with a UNHCR number. They must advise UNHCR, but can go ahead anyway.
- ∞ The procedure from when the refugee arrived by boat to their indefinite stay in a detention centre (or community detention – Bridging Visa E) enables officers to refuse protection visas at every step of the way. Refugees are not to communicate to each other, as this could give responses that could enable the refugee to use a Convention reason for staying in Australia. Refugees are to fill out paperwork, but there is no indication that the officer must advise what paperwork is required. This paperwork must be filed within 2 days, or they stay in detention. 'Public interest' ensures they stay indefinitely.
- ∞ If a Convention reason is triggered from the outset, then officers can take as long as possible to find a way to refuse the protection visa. If a complementary reason – enforced by the UN into Australian procedure in 2008 – has been triggered, then 'public interest' takes a key role to refuse a protection visa.
- ∞ Refugees in community detention are given Bridging Visa E's. These visas have an expiration date of up to a year. Conditions are that they cannot work or study, and they can only be paid between \$220 and \$300 per week to live. They must rely upon charities at all times, and are supposed to be given support for furniture. This last aspect does not



occur. After the bridging visa has expired, they are then cut off from financial support, and they then become a statistic of the homeless.

- ∞ Fluid and food refusal are documented in the manuals. This advises officers that the refugee can be secretly eating or drinking whilst officers are not looking, to what happens to the body 50 days after food refusal. The manual also dictates that one reason why refugees use fluid and food refusal is for manipulative purposes.
- ∞ Mental health is considered in detail, although not entirely acted upon, particularly in offshore IDC's. In fact, there are few facilities of any type within offshore IDC's. For example, there is no education for children and few activities for adults. Those suffering from mental health issues are watched, and can be put into high risk detention.
- ∞ IDC's are only to be used for temporary purposes, although there is information on how to treat refugees that have been in detention for longer than 2 years. Any refugees residing for longer than 2 years must be tabled in Parliament. There are refugees that have been in detention for longer than 5 years, so this is a moot point.
- ∞ While the manuals and guidelines continually swear that the Minister has non-delegable duty within all IDC's, he brushes off responsibility particularly in offshore IDC's by claiming that technically the offshore IDC's are not in Australian territory. This is even though the agreements signed with Papua New Guinea and Nauru clearly outline that Australia does have jurisdiction within the IDC's in these islands.
- ∞ All protection visas must go to the Minister for approval. Due to 'public interest', he now refuses all of them, although in the new budget he will be approving 400 protection visas for refugees who arrived to Australia by boat.
- ∞ The Prime Minister (Tony Abbott), Minister (Scott Morrison), Assistant Minister (Michaela Cash) and Foreign Minister (Julie Bishop), along with the Chief of the Defence Force (General David Hurley) and Head of Operation Sovereign Borders (Angus Campbell) all have knowledge and intent to continue implementing all the above procedures.

All of the above points breach numerous Articles in many United Nations Conventions, thereby triggering a breach of Article 7 of the Rome Statute for the International Criminal Court. All individuals named above should therefore be investigated thoroughly by the Prosecutor of the International Criminal Court, and charged with Crimes Against Humanity.

