

# Refugee Action Collective – Migration Laws Fact Sheet

## What's the significance of these new laws?

The new Asylum Legacy Caseload Bill legislation grants unprecedented powers to the Immigration Minister and his department to control and endanger the lives of asylum seekers who come to Australia by boat. It will mean even more people who need protection will be denied it, and some will almost certainly instead be deported to face torture or death. The 'lucky' ones might get a Temporary Protection Visa with no pathway to permanent residency. People stuck on Manus Island and Nauru will remain imprisoned there in appalling conditions.



## What powers do the laws grant specifically?

The legislation itself is huge and complex, but the most important aspects are clear. It aims to make it legal for the Navy to intercept asylum seekers' boats at sea, then detain them or even tow their boats back out to sea and leave them there. According to the legislation, Morrison can now block 'maritime arrivals' from even making a *claim* for asylum on the vague grounds of 'character' or 'national interest' without explaining why. If asylum seekers *are* allowed to make a claim, and it is rejected, under the new 'fast track' process they will at best get a paper review of their case rather than a full hearing. They have no access to the Refugee Review Tribunal and Australian courts. 'Excluded fast track applicants' will only get an internal review by the Immigration Department.<sup>[1]</sup>

The laws also change the definition of a refugee. The Department can decide asylum seekers could avoid persecution by living in a different part of their home country or 'modifying their behaviour'. That could mean deporting people to countries where they face persecution if they are open

about their sexuality or their religious or political beliefs. The Department can even deport people to countries where, under the UN Refugee Convention, they would be considered to face the threat of torture or death.<sup>[2]</sup>

## Will any refugees who come by boat get permanent protection?

For asylum seekers currently in Australia waiting to have their claims assessed (the so-called 'legacy caseload') the new laws seek to effectively eliminate the chance of permanent residency. Even if the department deems them 'refugees' under the new process, most will get a Temporary Protection Visa (TPV). TPVs leave refugees in limbo, forcing them to re-apply for protection every three years. If that's denied, they face deportation. At best, refugees might get a Special Humanitarian Enterprise Visa (SHEV) and then after five years might be able to apply for another visa.<sup>[1]</sup>

People on TPVs and SHEVs will have no family reunion rights and virtually no rights to travel. So refugees who are here without their families may never see them again.<sup>[3]</sup>

## What about asylum seekers on Manus Island and Nauru?

They will stay stuck there, either waiting for their claims to be processed or for 'resettlement' outside Australia. Conditions in both camps are appalling: there are allegations of widespread sexual assault; suicide attempts are common; and there have been deaths due to inadequate health care and the attack on the Manus camp.

Some refugees have already been 'resettled' on Nauru where they face a bleak future. Refugee children have been attacked for attending school. The government also wants refugees resettled in PNG and Cambodia.<sup>[4]</sup> Like Nauru, these are poor countries completely unsuited to taking refugees.

Australia takes a comparatively small number of asylum seekers.<sup>[5]</sup>

### **At least some children will now get out of detention, won't they?**

Morrison has promised to transfer children in detention on Christmas Island to the mainland before Christmas, but hasn't confirmed they won't just be sent to another detention centre.<sup>[6]</sup>

Morrison has always had the power to release asylum seekers and let them live in the community: he effectively used these children as hostages in his negotiations with the Senate cross-benchers. The legislation will reduce these children's chances of getting refugee status and cut-off their chances of getting permanent residency and family reunion rights. Morrison's hypocrisy is evidenced by the 167 children stuck in detention on Nauru. He is also preparing to deport 44 children to Nauru including 25 babies born to asylum seekers in Australia hospitals.

### **Hasn't the humanitarian intake been increased?**

Again, this is just Morrison's promise, not part of the legislation. If enacted, the 'increase' in the humanitarian intake would take it back to 18,750 over four years, which is 1,250 *lower* than the previous government's target.<sup>[1]</sup>

### **The drownings have stopped though, haven't they?**

We actually don't know if the drownings have stopped because 'on water' operations are cloaked in such secrecy. We do know that Navy personnel have accused the government of causing drowning deaths by delaying rescue operations for political reasons.<sup>[7]</sup> 'Stopping the boats' really means intimidating refugees into staying where they are or taking equally risky journeys to countries other than Australia. Australia is now refusing to take any refugees stuck in limbo Indonesia. They eek out a living without any work rights or languish in immigration prisons, and now have no option to

get to Australia other than boat journeys.

Refugees wouldn't get on leaky boats if there were a safe way for them to travel to Australia or if they could be resettled from Indonesia or Malaysia within a reasonable period of time. Punishing refugees by locking them up or deporting them to danger is grossly immoral and does not save lives.

### **What now?**

This bill is a disaster for refugees, but it only got through by two votes in the Senate. Morrison had to offer 'sweeteners', releasing some children, and allowing asylum seeker work rights, to pass his legislation. We can beat Morrison, but we need to build an even stronger refugee movement. Join us, and keep Palm Sunday March 29, 2015 free for a mass refugee rights mobilization.

1. <http://www.theguardian.com/australia-news/2014/dec/05/senate-gives-scott-morrison-unchecked-control-over-asylum-seekers-lives>
2. <http://www.smh.com.au/comment/perverse-migration-bill-shreds-the-rule-of-law-20141106-11h7m7.html>
3. <http://www.eurekastreet.com.au/article.aspx?aeid=42363#.VljWRzGUfw9>
4. <http://www.smh.com.au/federal-politics/political-news/scott-morrison-washes-his-hands-of-children-attacked-on-nauru-20141028-11d3br.html>
5. <http://www.abc.net.au/news/2014-02-24/liberal-mp-kelly-odwyer-incorrect-on-australias-refugee-intake/5270252>
6. <http://www.theage.com.au/federal-politics/political-news/malcolm-fraser-savages-scott-morrisons-new-asylum-seeker-laws-and-senators-who-passed-them-20141210-124bp1.html>
7. <http://www.abc.net.au/news/2014-12-02/navy-personnel-open-up-about-border-protection/5933260>

**For more info:** [www.rac-vic.org](http://www.rac-vic.org)

[refugeeactioncollective@gmail.com](mailto:refugeeactioncollective@gmail.com)

[www.facebook.com/racvic](http://www.facebook.com/racvic)

Phone: Chris 0403 013 183 or Sue 0413 377 978

**Get Involved!** RAC meets every Monday 6.30pm ANMF House 540 Elizabeth St City. New people welcome. First meeting of 2015 is Jan 19.

**Join the emergency contact list!** RAC is worried 5 babies and their mothers may be sent from Melbourne to Darwin in preparation for deportation to Nauru over the holiday period. To be informed of snap protests join our contact list:

<http://rac-vic.org/subscribe>