

18 January 2022

Joint Standing Committee on Migration

Parliament House

Canberra ACT 2611

Re: *Ending Indefinite and Arbitrary Immigration Detention Bill 2021*

Thank you for the opportunity to express our views on this Bill.

The events of the past week relating to the tennis player Novak Djokovic have shone a glaring light on the plight of refugees held in the same hotel that Djokovic was held whilst he appealed his visa status. The difference being that Mr. Djokovic had lawyers to advocate for him and a speedy process to appeal through. Tragically, and shamefully, refugees detained in locations around the country, many of whom have been held for years with no end in sight, have neither.

Australia is a signatory to the 1951 UN Refugee Convention, and the Universal Declaration of Human Rights. We are not fulfilling our minimum obligations under both international conventions and other human rights treaties. Simply stated, people have the legal and human right to seek asylum and should not be discriminated against because of their mode of arrival. Whilst Australia has incorporated some of the provisions of the Refugee Convention into domestic migration law, it has failed to enshrine the legal right of seeking asylum. This Bill will compel the Australian government to abide by these minimum obligations.

Governments have the right to detain people seeking asylum until their claim has been verified. This should be a defined process and completed within a reasonable timeframe. Australian authorities often take an inordinate length of time to process an asylum application (can be several years), and even when people are classified as refugees, rather than being released into the community, they are kept in detention for an indefinite period. This Bill requires that detention of refugees must be lawful, necessary, proportionate, for the shortest possible time, and that the detention is regularly reviewed.

This Bill also provides for alternatives to immigration detention. Community residential options are available and are superior to existing detention facilities in several respects. While their claims are being processed, refugees would be able to live in the community with the right to access services such as health, education, and counselling (essential for many refugees traumatised by their experiences) and would have the right to seek work. This is not only a much more humane option, but far more cost effective for government. It is estimated that it costs \$240,000 per year to keep one person in immigration detention as compared with circa \$12,000 for the community option.

The scenes of children in detention are distressing to even the harshest of hearts. There is no excuse to keep children for protracted periods of time in such damaging environments for their physical, emotional, and mental well-being. And it is inhumane to separate children from their families. This Bill would end such cruel treatment.

Immigration detention facilities must be subject to external inspections to ensure that conditions meet minimum standards, and that arbitrary rules that make life more difficult and unfair are scrutinised. The Bill calls for independent monitoring of immigration detention facilities.

We strongly urge the Joint Standing Committee on Migration to support the *Ending Indefinite and Arbitrary Immigration Detention Bill 2021*.

Yours sincerely,



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