



**CONFERENCE OF LEADERS OF RELIGIOUS INSTITUTES  
IN NEW SOUTH WALES  
CLRI (NSW)**

Prophetic. Pro-Active. Prayerful.

**Submission to the Senate Standing Committee on Legal and  
Constitutional Affairs *Inquiry into the Migration Amendment  
(Unauthorised Maritime Arrivals and Other Measures) Bill 2012***

As a member of the CLRI(NSW) Justice Committee I make this submission with the support and the authority of the members.

The members of CLRI(NSW) welcome this inquiry and are willing to have this submission made public, they are also willing to send a representative to speak to the inquiry if this required.

With every good wish for your deliberations

Yours sincerely,

Libby Rogerson ibvm  
for CLRI (NSW) Social Justice Committee  
10 December 2012

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## **Submission to the Senate Standing Committee on Legal and Constitutional Affairs *Inquiry into the Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Bill 2012***

The NSW Conference of Leaders of Religious Institutes, CLRI (NSW), represents approximately 3,500 Catholic religious, women and men, throughout the state, as well as many people working in organisations run by religious institutes. The members of CLRI (NSW) and their colleagues, many of whom work on a daily basis with asylum seekers and refugees, are committed to a humane, compassionate and generous treatment of asylum seekers. Given this experience CLRI (NSW) is pleased to be able to make a submission to this Senate Inquiry.

The aim of the *Migration Amendment Bill 2012* appears primarily, to the members of CLRI (NSW), to be directed at countering people smugglers and deterring people seeking asylum from arriving in Australia by boat.

CLRI (NSW) acknowledges the complexity of this global movement of peoples – a vast number of people driven out of their homes and countries by conflict, persecution, discrimination and violence. Australia is not immune from this movement of peoples but, in comparison with many countries, the numbers seeking asylum in Australia are quite small. There is no quick fix to this desperate search for safety. As long as violence, conflict and persecution continue in the world there will be people seeking safety and a chance to bring up their children in peace and stability. Given this complexity it is important that legislation is not done ‘on the run,’

In essence there are only two ways to view asylum seekers – through a moral lens or through the lens of political expediency. Political expediency sees asylum seekers as a problem – they threaten our borders, they create division and disharmony in the community and in the region, they contribute to the growth of people smugglers, they are expensive and they do not fit any organised systems or queues. Asylum seekers, therefore, must be deterred from coming here, no matter how draconian the measures. The political expediency approach, supported by both Liberal and Labor politicians, the Murdoch press, some prominent radio announcers and, considerable numbers of the general public, demands that something be done and that it be done quickly. The urgency around the issue has been exacerbated by the terrible drownings at sea.

Viewing asylum seekers through a moral lens requires first of all that we see asylum seekers as people – traumatised, desperate, not wanting to leave their countries but with no other place to go. It requires a review of our duties and responsibilities under international law and as a signatory to the Refugee Convention which Australia signed in 1954, along with the International Convention on Civil and Political Rights and the Convention on the Rights of the Child.

CLRI (NSW) endeavours to view asylum seekers through a moral lens and is, therefore, opposed to the *Migration Amendment Bill 2012* for the following reasons:

- Australia is a signatory to the Convention and a moral approach demands that at worst we uphold the responsibilities to which we are signatory and at best we adopt an humane and compassionate approach to these most vulnerable people. Excising Australia and conducting

all processing off-shore does not seem to us to be in the spirit, and probably not in the meaning of the Convention.

- Australia is an affluent and politically stable country with a functioning rule of law and effective bureaucracies quite capable of processing asylum seekers on-shore. In the absence of an established regional processing program under the auspices of UNHCR it is Australia's responsibility to process asylum seeker claims on-shore and afford claimants all the legal supports to which they are entitled.
- As a signatory to the Convention and as a responsible international player Australia has a number of responsibilities which cannot, easily, be handed over to a third party – the health and safety of the asylum seekers, protection of their human rights, the provision of legal support for those seeking asylum, effective procedures for processing claims and particular care of minors and children, including their health and education. Excising Australia keeps our responsibilities at arms -length and appears to us to avoid direct responsibility for people exercising their legal right to seek asylum.
- The *Migration Amendment Bill 2012* does not, in our opinion, spell out clearly enough how asylum seekers will be guaranteed protection and safety in a third country. The Minister of Immigration has greatly expanded powers in relation to declaring a third country as a “safe” place for asylum seekers and there does not seem to be sufficient protection against sending people to countries where they will be at risk of persecution.
- Amending the existing migration legislation seems to indicate that judicial oversight and review will be reduced – this is not what is expected of a healthy democracy with a respect for international law and a concern to protect human rights.
- If the *Migration Amendment Bill 2012* is successful Australia would be the only country in the world to have in place such legislation. Far from being an example to the world as to how a country might respond to asylum seekers Australia, in the words of the Refugee Council, sends *an extremely negative message to the Asia Pacific region, one which ultimately undermines efforts to improve conditions for those forced to flee persecution and violence.*
- Finally, and most importantly, it is never right to use people as a means to an end. People smuggling is criminal and exploitative but it is not right to use desperate people as pawns in the war against people smugglers.

CLRI(NSW) is strongly opposed to the proposed amendment to the migration law and asks the Senate to keep in the forefront of their inquiry the faces and the humanity of those people who take such risks in order to gain safety for themselves and their families.

The challenge for all of us is to stand in the shoes of any asylum seeker and ask: *what would I do if my life and the lives of my family were in danger?* How we respond to asylum seekers is essentially a moral question not a deterrent mechanism. It is immoral to use vulnerable people to send a *stay away* message to others. As Fr. Frank Brennan s.j. wrote in a recent article *deterrence should not be bought at the price of decency and accountability in the protection of asylum seekers.*<sup>1</sup>

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<sup>1</sup> Fr Frank Brennan S.J. Eureka Street 13 August 2012