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Liberty Victoria: Statement following the passing of the *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Bill 2014*

Last week, Australia's Parliament passed legislation intended to sideline international law, natural justice and judicial oversight from the determination of asylum claims.

Liberty Victoria condemns that legislation, and the appalling tactics used to secure its passage through the Senate.

Over 100 children will be released from immigration detention following the passing of the *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Bill 2014*. Their release is welcomed. Yet as Daniel Webb of the Human Rights Law Centre (and a member of Liberty Victoria's Policy Committee) has noted, the Immigration Minister:¹

... quite literally made these children the hostages of his political agenda. Their rights and liberty in no way hinged on a principled assessment of the necessity for their detention. Their freedom didn't depend on any assessment of their wellbeing or of the harm being caused by their incarceration. Their futures had absolutely nothing to do with any consideration of their human rights.

Their fate hinged entirely on the Senate paying [the Minister's] asking price – the passage of his Migration Bill.

The scope and content of that Bill, now law, is frightening. Julian Burnside AO QC (also a member of Liberty Victoria's Policy Committee) has observed:²

Under Morrison's amendments, the principle of natural justice is removed, the supervisory role of the courts is removed, references to the convention in the migration act are removed. The minister now has the power to send a person to any country he chooses, even if that may involve a breach of our international obligations.

¹ Daniel Webb, "Decency to one group of refugees shouldn't be contingent on licensing Scott Morrison to brutalise others", Human Rights Law Centre, 5 December 2014.

² Julian Burnside, "By bargaining with children, Morrison's refugee strategy has a kidnapper's logic", The Guardian, 8 December 2014.

The Government wanted the power to return asylum seekers to a country where their life or freedom would be at risk.³ Parliament has given it to them.⁴ It did so despite warnings from the Parliamentary Joint Committee on Human Rights⁵ and the United Nations Committee against Torture⁶ that such power breaches Australia's human rights obligations.

Rights designed to protect asylum seekers – mostly refugees who have fled from unutterable circumstances – continue to be stripped away as Australia abandons its international obligations.⁷

Liberty Victoria condemns that abandonment.

There are many other troubling aspects about the Bill.⁸

As 2014 draws to a close, legislation such as this reminds us why it is as important as ever to stand up for equality, to stand up for fairness and to stand up for liberty.

The Refugee Action Collective (Vic) has organised the following event:

Human Rights Vigil to protest Morrison's Bill
Friday 12 December 2014
7pm to 9.30pm
City Square (cnr Collins & Swanston Streets).

Details of the rally are available online: <http://rac-vic.org/2014/12/02/vigil-for-human-rights-week/>.

I hope that all who can attend do so.



George Georgiou SC
President
Liberty Victoria

³ Contrary to its international obligations under the 1951 Convention relating to the Status of Refugees, in particular the non-refoulement obligation to not return individuals to a country, either directly or indirectly, where their life or freedom would be at risk: UNHCR statement: *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Bill 2014*, 26 September 2014.

⁴ Section 197 of the Bill.

⁵ Fourteenth Report of the 44th Parliament, "Examination of legislation in accordance with the *Human Rights (Parliamentary Scrutiny) Act 2011*", 28 October 2014.

⁶ Committee against Torture, "Concluding observations on the fourth and fifth periodic reports of Australia", at [15].

⁷ Julian Burnside, "By bargaining with children, Morrison's refugee strategy has a kidnapper's logic", *The Guardian*, 8 December 2014.

⁸ See, for example: Human Rights Law Centre, "Increasing power and decreasing accountability: Submission to the Senate Legal and Constitutional Affairs Legislation Committee review of the *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Bill 2014 (Cth)*", 31 October 2014; "Asylum laws will fast-track vulnerable people to danger", *Refugee Council of Australia*, 5 December 2014; "Australia: returning people to torture since 2014", *Amnesty International*, 5 December 2014.