



AUSTRALIAN
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Media release

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United Nations Committee against Torture condemns Government's proposed changes to Migration Act

The UN Committee against Torture has found Australia's policy of intercepting and turning back boats is being done without consideration of the country's obligations under article 3 of the UN Convention against Torture.

The Committee said the *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Bill 2014* puts Australia at grave risk of non-compliance with its Convention obligations. The Convention prohibits States from returning or 'refouling' anyone to a place 'where there are substantial grounds for believing they would be in danger of being subjected to torture'.

Australian Lawyers for Human Rights (ALHR), which provided a written submission to the Committee, supports the findings.

ALHR's Refugee and Asylum Seekers Spokesperson, Claire Hammerton, said of the report, "The Committee against Torture has confirmed that Australia's policy of turning back boats with scant on-sea individual assessments is placing Australia at risk of breaching its international obligations not to return people to torture. ALHR believes that Australia's compliance with international human rights standards in its treatment of asylum seekers is worsening and the Committee's latest report unfortunately bears that out."

On Friday the Committee published its report on Australia's compliance with the Convention, citing the Australian Government's policies on asylum seekers as its greatest concern. The release of the report follows two days of hearings with Australian Government delegates earlier this month, in which the Committee made persistent inquiries and criticisms of Australia's approach to asylum seekers.

The Committee expressed frustration at the lack of information provided by Australia as to if and how it assesses the risks to individuals before it turns back boats.

The Committee advised that legislation should actively ensure that asylum and other claims for protection are 'thoroughly examined and that the persons concerned have a real opportunity to effectively challenge any adverse decisions adopted concerning their claims', regardless of the mode and date of arrival and that Australia should not lower existing legislative standards against non-refoulement. It was especially critical of the direction to officers in Schedule 5 of the Bill to ignore non-refoulement obligations.

"With the *Asylum Legacy Caseload Bill* before the Senate this week, we urge Senators to respect the UN committee's cautions and reject the Bill outright", Ms Hammerton said. "Each of the Schedules of the Bill increases the risk of Australia breaching its non-derogable, international obligations to provide protection to individuals and to not return them to danger, not just under the Convention against Torture, but also the Refugee Convention and International Covenant on Civil and Political Rights."

In addition to its comments on the Bill, the Committee noted the UNHCR's finding that processing centres on Manus Island and Nauru lacked 'humane conditions of treatment in detention' and that Australia had international obligations to the individuals detained there. It also urged Australia to 'ensure that persons in need of international protection, children and families with children are not detained or, if at all, only as a measure of last resort, after alternatives to detention have been duly examined and exhausted, when determined to be necessary and proportionate in each individual case, and for as short a period as possible'.

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ALHR (Australian Lawyers for Human Rights) is a network of Australian lawyers active in practising and promoting awareness of international human rights standards in Australia. ALHR has a national membership of over 2600 people, with active National, State and Territory committees.