SUBMISSION ON HOME AFFAIRS LEGISLATION AMENDMENT (2025 MEASURES NO. 1) BILL 2025

Overview

The Government's new Home Affairs Legislation Amendment (2025 Measures No. 1) Bill - referred to by refugee and human rights advocates as the 'Anti-Fairness Bill' poses significant risks to human rights, legal fairness, and human dignity. This legislation stands to severely impact individuals and families we support at the Asylum Seekers Centre, and escalate pressures on already strained services across the refugee support sector.

Context

The Home Affairs Legislation Amendment (2025 Measures No. 1) Bill brought to the House of Representatives for its Second Reading on Tuesday 2 September. The legislation follows the three brutal Bills that the Government rushed through Parliament last year, which granted them new powers to:

- Make paid arrangements with other countries to accept people Australia deports,
- Force people to cooperate with their deportation;
- And to limit people's rights in immigration detention.

Following the passage of the three Bills, the Albanese Government entered into a 'third country reception arrangement' with Nauru, allowing it to deport an initial group of three men to the country and potentially more in future. However, these deportations have been held up by legal challenges and now the new powers are an attempt to circumvent the legal challenges and make deportations quicker in the future.

The Bill creates the following powers:

- Remove the government's duty to give a person notice, and an opportunity to respond, when deciding to deport them to a third country – effectively allowing the government to ignore health, safety or family separation risks that someone might face if exiled permanently to a country that is not their home;
- Remove the government's duty to give a person notice when issuing them a direction to cooperate with their own deportation, when the failure to comply results in jail time;
- And retrospectively patch up visa decisions that were made on the basis of wrong information and wrong or outdated law, rather than allowing those decisions to be reconsidered and made again.

The Bill follows the Federal Government's new $408 million deal with the Government of Nauru, which has been shrouded in secrecy.

Threats to human rights

The Anti-Fairness Bill builds on legislation passed by the Albanese Government in 2024 to deport and resettle non-citizens on the Pacific island state of Nauru. These plans have been widely condemned internationally as a threat to the human rights of refugees and people seeking asylum.

Earlier this year the UN Human Rights Committee published a report which stated that the Australian Government's longstanding detention of people seeking asylum in Nauru had been a breach of their rights and the use of offshore processing did not absolve states of their human rights obligations to those seeking asylum.

In recent months Nauru has suffered from food shortages and outbreaks of Dengue Fever. The risk of retraumatising people who have fled to Australia to escape war and persecution is real and it remains unclear if those people deported to Nauru as a result of the Government's new powers will be re-detained or allowed to live freely in the community. The powers could also place these individuals at risk of refoulement - the forcible return of refugees or people seeking asylum to their country of origin or a country where they are liable to be subjected to persecution.

Threats to natural justice

The Bill would remove any requirements of natural justice that might otherwise apply when the Government is entering into or carrying out a third country reception arrangement. Natural justice is the principle that entitles people to receive fair notice and have a chance to respond when governments make decisions that impact them.

Removing natural justice requirements in this context would mean the government did not and does not have to consult or consider the specific circumstances of people subject to third country arrangement when taking actions that directly impact them.

Practically, these powers mean that a Home Affairs officer would not have to notify a person that they intend to issue them with a formal removal direction, or give them an opportunity to comment on whether it is fair or practically possible to comply with such a direction. It would mean, for example, that a mother could be issued with a removal direction requiring her to apply for a passport for her child, without the officer enquiring beforehand whether it was safe or even possible to contact the child's father to obtain the consent required for the passport application.

Scope

The Government claims that these powers can only be used on people who have 'exhausted all other options to remain in Australia,' and are focused on the so-called NZYQ cohort, however this is not the case. Human rights lawyers estimate as many as 80,000 people could be affected by the powers.

Lack of due process

It has been our observation that following the High Court ruling on indefinite detention, the Government has adopted an alarming and chaotic pattern of attempting to rush through knee-jerk, punitive legislation without due process.

This Bill was introduced on Tuesday 26 August, rushed through the House of Representatives the following Tuesday, and was only referred to a two-hour hearing limited to Home Affairs officials.

The speed at which this legislation has been introduced - without adequate notice or consultation - places an unsustainable strain on support organisations like the Asylum Seekers Centre. Our frontline teams are expected to rapidly interpret complex proposed legislation and communicate it to highly traumatised individuals who require time, trust, and tailored support to understand the implications for their lives.

This rushed process makes it nearly impossible to deliver that communication effectively, ethically, or safely. It risks retraumatising people who are already navigating fear and uncertainty, and leaves organisations like ours caught between policy and the human cost inflicted.

Broader impact

We believe the removal of legal rights from certain cohorts of people will have impacts beyond refugees and people seeking asylum, standing to marginalise multicultural communities and polarise public debate.

This legislation risks entrenching the perception that certain groups are permanently conditional in their belonging, subject to different rules, and denied the same access to justice. Such a move erodes trust in institutions not only among affected individuals, but across multicultural communities who see these laws as part of a pattern of exclusion.

This undermines the social cohesion we work to foster every day. It also fuels public polarisation, enabling more extreme rhetoric around migration and national identity to take root. Rather than uniting Australians around a fair and transparent system, this approach drives division, fear, and exclusion.

Recommendations

- The Home Affairs Legislation Amendment (2025 Measures No. 1) Bill poses serious threats to human rights and undermines the rule of law. The Bill should be **rejected outright.**
- The legislation has not been subject to adequate Parliamentary scrutiny considering the impact it has on fundamental human and legal rights. **Senators should refer the Bill to a full Senate Inquiry.**
- The Government's new deal with the Government of Nauru has been agreed in the absence of transparency. **Considering the costs to the taxpayer and the engagement of fundamental human rights the Government must publish in full details relating to this agreement.**

The Asylum Seekers Centre

Established in 1993, the Asylum Seekers Centre (ASC) was the first organisation in Australia to open its doors to specifically welcome and support people seeking asylum. We provide practical and personal support for people seeking safety in Greater Sydney, and advocate for fair and humane policies at every level.

Our services include healthcare, employment support, crisis casework, food, community connections, and everyday support.

In the last financial year, we supported approximately 4,600 people seeking asylum, including around 1,000 children, from more than 90 countries.