

This month we ask you to write a **SUBMISSION**

* A submission can be a simple letter.

* Email to: migration@aph.gov.au

* **No later than 28 January 2022**



Write to the Joint Standing Committee on Migration inquiry regarding the
The Ending Indefinite and Arbitrary Immigration Detention Bill 2021
This is Andrew Wilkie's Private Members Bill

Why it is **essential** to show support for this bill:

Australia must return to acting in accordance with international law, protocols and human rights conventions. If adopted, this Bill would:

- end the illegal, inhumane and arbitrary detention of refugees and non-citizens by the Australian government
- end mandatory detention
- end offshore detention
- end the possibility of refugees being held in detention for years on end

The number of submissions received indicates to the Committee the level of public concern – so make sure you add your voice!

Please find below:

1. How to make a Submission – what to include
2. Background notes on the Bill
3. Sample submission: *use this for inspiration!*

SUBMISSIONS CAN BE

Emailed to: migration@aph.gov.au

Lodged online: https://www.aph.gov.au/Parliamentary_Business/Committees/OnlineSubmission
(you'll need to create an account to do this)

Or mailed to:

Committee Secretary, Joint Standing Committee on Migration
PO Box 6021,
Parliament House,
Canberra ACT 2600

ALSO - We encourage you to send a copy to each of the senators in your State.

Email addresses for all Senators are attached at the end of this document

Forward a copy of your submission to your local MP - find address [here](#)

Write your Submission: *It does not need to be long or complicated.*

- See briefing notes on the next page to assist you.
- There is a sample submission at the end of this document - *please use your own words - do not copy it verbatim.*

1. Title:

Your Name or Name of your Group/Organisation
Submission to the Joint Standing Committee on Migration
Ending Indefinite and Arbitrary Immigration Detention Bill 2021

2. Introduction - Introduce yourself and say why you have an interest in this Bill.

For example:

The [*name of your group*] welcomes the opportunity to make this submission on behalf of its members.

Our group ... [*very briefly describe your group's interests and activities as the relate to this Bill*]

3. Statement of position on the Bill:

I/we strongly support the passage of the Bill because [*very briefly describe your group's interests and activities as the relate to this Bill*]

4. Why the Bill is necessary:

Write about the Key Elements of the Bill and why you/your group support them - see Background Information above

5. Conclusion:

Ask that the Bill be passed

For example:

It is essential that this Bill is passed in order to put an end to indefinite mandatory detention and to end offshore processing.

It would bring Australia's policies and practices in accord with international law.

Background Notes:

The Bill adheres to refugee and international human rights law and ensures all decisions are subject to independent oversight and prompt review.

The Bill upholds the fundamental human right of liberty and security, the right to freedom of movement and the international prohibition on arbitrary detention.

The Bill acknowledges that family unity should be paramount as it is the key to refugees successfully restoring their lives.

- Information about the Joint Standing Committee on Migration Inquiry [here](https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Migration/ImmigrationDetentionBill)
https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Migration/ImmigrationDetentionBill
- Relevant documents on the Bill can be found
https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bId=r6675
- [Andrew Wilkie's speech](#) when he introduced the Bill to parliament in Feb 2021

Summary of the main points in the Bill:

Under this Bill:

- Immigration detention for non-citizens and refugees must be lawful, necessary, proportionate, for the shortest possible time, and regularly reviewed. There must be no discrimination based on a person's mode of arrival.
- Community residential alternatives to immigration detention would be the preferred option to immigration detention - While claims are being processed, refugees and non-citizens would live in the community with the right to work, and access to services - health and mental health services, education, counselling, government services and legal services.
- Mandatory detention would be illegal.
- Any detention would be in Australia and be determined to be both necessary and proportionate, with the grounds for detention explicitly identified.
- There would be independent monitoring of communication and services available in immigration detention, with all decision-making subject to independent review and not left to the discretion of the Minister or Secretary.
- Australia's current offshore immigration detention policies would be dismantled.
- The fundamental principle that people have a legal right to seek asylum would be inserted into domestic law.
- People who have committed a crime would not be held in immigration detention facilities. If they pose a risk to public safety they should be prosecuted under the relevant Act and dealt with through the courts in the same way as Australian residents/citizens.

Sample submission - Blue Mountains Refugee Support Group

SUBMISSION

ENDING INDEFINITE AND ARBITRARY IMMIGRATION DETENTION BILL (Andrew Wilkie)

Introduction

We are members of the Blue Mountains Refugee Support Group Letter Writing Group. We are a branch of the larger BMRSG and we are dedicated to writing letters to politicians and other people of influence to inform them of our concerns regarding Australia's treatment of refugees and asylum seekers.

The group's main aims are to let people in power know that voters:

- care about the fate of people who are fleeing persecution
- care about Australia's diminishing international reputation as a welcoming multicultural nation
- have major concerns about the amount of taxpayer funds which are dedicated to keeping recognised refugees and asylum seekers locked away from the community
- feel morally compromised by our government policy makers who believe it is just to keep people who are not criminals locked away for indefinite periods of time

We thank Andrew Wilkie for putting this Bill forward and thank the Committee for the chance to offer our support of the Bill and participate in the democratic process.

The Legal Right to Seek Asylum

As a member of a global community, it is important that Australia is compliant with international laws governing the treatment of refugees. The Refugee Convention 1951 builds on the Universal Declaration of Human Rights which recognises an individual's right to seek asylum and flee persecution. Its basis is the principle of non-refoulement.

Australia has a legal obligation to accept individuals who are found to be legitimately seeking asylum and "shall not impose penalties on refugees who, on account of their illegal entry or presence, came (sic) directly from a territory where their life or freedom was threatened ..." (Article 31, Refugee Convention, 1951)

The current policy discriminates unfairly based on the mode of transport used by asylum seekers and, due to their arrival by boat, has imprisoned recognised refugees for upwards of eight years. Many countries have inserted into domestic law the principle that people have the legal right to seek asylum. Australia needs to follow their lead.

Time Frames for Immigration Detention

Article 31 of the UN Refugee Convention 1951 also states that signatories "shall not apply to the movements of such refugees restrictions other than those which are necessary and such restrictions shall only be applied until their status in the country is regularized or they obtain admission into another country."

Clearly this has not been the case. Asylum seekers unlucky enough to arrive in Australia by boat after 2013 have been held in detention – living a life of "perpetual uncertainty". The effect this has had on their mental and physical health has been catastrophic. Twelve people have died by suicide or due to inadequate health care (up to March 2021) and the emotional impact of their imprisonment is immeasurable.

Behrouz Boochani outlines his treatment on Manus Island in his book, *No Friend but the Mountains*. His quote, "I just hope I wake up from this nightmare soon," reflects the misery he escaped from only to find himself in a darker place.

All asylum seekers have a right to know how long they will be detained. Once it is established that they are genuine refugees, they need to be released into the community. The Bill allows for this to happen in a regulated way that fulfills any security concerns. At the moment, refugees have fewer rights than convicted criminals in this regard.

Children in Detention

Children should not be detained, and if they are, it should be for the shortest appropriate time. The current case of the Murugappan family from Biloela is a shameful indictment of Australia's refugee policy. The fact that they are no longer in detention on Christmas Island does not negate the fact that two small children were held under guard for three years.

Several members of our group are former teachers and are aware of the adverse effect of trauma on a child's educational outcomes, not to mention the ongoing emotional impact on their lives. The proposed Bill for Ending Indefinite and Arbitrary Detention ensures that this is minimised.

It also protects and respects family unity. Wherever possible, families should not be separated. Separation is cruel and inhumane for both parents and children and is, in most cases, unnecessary.

Alternatives to Detention

There are many concerns surrounding the current model of detaining refugees and asylum seekers. However, one of the major concerns is the cost to tax payers. According to the Refugee Action Coalition, detaining a single person offshore costs \$400,000 per year (\$350,000 per year according to Ben Doherty and Nick Evershed from The Guardian) while detention in Australia costs \$239,000 per year. “By contrast, allowing asylum seekers to live in the community while their claims are processed costs just \$12,000 per year, ... and even less if they are allowed the right to work.” (RAC) If these figures are correct, then it makes sense to allow people to live under strict conditions within the community with access to health, education, legal and government services.

This Bill has outlined specific conditions which must be met in relation to the refugee’s freedom to live within the community including in part 2 (d) where it stipulates that a guarantor would be appointed “who would be responsible for ensuring the non-citizen’s attendance at official appointments and hearings and for ensuring the non-citizen otherwise reports as specified in any condition of release.” Safeguards such as this would ensure the success of alternatives to detention and assist the “non-citizen” to adjust to life in Australia.

This model also adds the proviso that the “non-citizen” should be supported and have access to “means of self-sufficiency”, that is the right to work. Many of our members have met refugees who are anxious to get out into the community and want the opportunity to earn a living. One group of men in particular who had been released into the community, requested a mower so that they could care for their surroundings and keep the grounds looking good – all on a volunteer basis - to ward off devastating boredom and depression. Australia’s duty of care should extend to the individual’s physical and emotional well-being. Freedom to move within the community and to contribute to it in a meaningful way is integral to this. The Ending the Indefinite and Arbitrary Immigration Detention Bill addresses this issue and provides a solution.

Independent Monitoring

Immigration detention facilities must be open and transparent and be subject to external inspections. The importance of this has been highlighted during the COVID pandemic where detainees were concerned with the lack of social distancing and adequate protection materials in many of the APODs. Their fear was shown through reported demonstrations at hotels in both Brisbane and Melbourne.

Arbitrary rules such as the cancellation of library services to detainees in the Park Hotel in Melbourne are inhumane. Visitors to Villawood in Sydney are no longer allowed to take games to the inmates. A regular inspection of facilities and rulings by an independent organisation “determined, by legislative instrument, by the President of the Australian Human Rights Commission” (Section 22 (2) of the Bill) would go some way to ensuring that people under Australia’s care are treated humanely and with respect. Their living conditions should not adversely affect their physical and mental health.

Conclusion

The BMRS Letter Writing Group has met regularly for the past 4 years. During that time we have been distressed at Australia’s abrogation of its responsibilities to those who flee persecution. We have had access to personal stories from people who have escaped traumatic and life threatening situations only to find themselves locked in detention centres for an indeterminate amount of time with no clear idea of what their future may hold.

We have written repeatedly to those in power only to be answered with stock phrases that reflect a firm belief that the current situation is working well. We commend Andrew Wilkie for his support and dedication to reshaping the way Australians perceive refugee issues. The passage of this Bill would restore our international reputation as a humanitarian nation; it would benefit the budget's bottom line; and it would restore our faith in Australia as a country that gives everyone a "fair go."

"My humanity is bound up in yours, for we can only be human together." Desmond Tutu

Email addresses for all Senators - 12 Nov 2021

Email addresses for all **ACT** senators - ready to copy and paste into "TO" section of your email:

senator.katy.gallagher@aph.gov.au; senator.seselja@aph.gov.au

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NOTE: If you are sending an email be sure to include your NAME and ADDRESS