

## L4R AMENDMENTS TO NATIONAL PLATFORM - CONSULTATION DRAFT

### Para 35 Human Rights

last sentence:

Labor will adhere to Australia's international human rights obligations and will ~~seek~~ **legislate** to have them incorporated into the domestic law of Australia.....

**Para 206** Labor will treat people seeking our protection with dignity and compassion and in accordance with our **obligation of non-refoulement<sup>1</sup> and all other** international obligations, the rule of law and core Australian principles of fairness and humanity. **Labor will not return lesbian, gay, bisexual, transgender or intersex refugees or asylum seekers to countries which have criminal laws against any of these communities.**

**Para 213** The phenomenon of people smuggling has a long history arising from the need for people to escape from danger and persecution. Labor also recognises that those who decide to leave a country in perilous circumstances have the right under the Refugee Convention to determine their means of departure. However, recognising the risk to life of people travelling on unsafe, unseaworthy and overcrowded boats, Labor supports measures to reduce such journeys by working with regional neighbours and the Office of the United Nations High Commissioner for Refugees to eliminate any pull that people smugglers may have over vulnerable protection claimants by:

- Addressing people smuggling at its source;
- Pursuing strong regional and international arrangements which provide access to protection in countries of first asylum to deter secondary movements of asylum seekers;
- Developing the capacity, both in countries of first asylum and transit countries, to improve living standards and protection outcomes for asylum seekers who may be vulnerable targets of people smugglers;
- Expediting the claims for refugee status by asylum seekers in the region; and
- Increasing the humanitarian intake of genuine refugees from source and transit countries to create an orderly pathway to resettlement in Australia and provide asylum seekers with an alternative to irregular boat travel to Australia.
- **Labor rejects other policies of 'deterrence' implemented alongside off-shore detention, especially intercepting and turning back boats at sea, or transferring refugees to other vessels for immediate return to their countries of origin without a proper assessment of their claims for protection. Such policies needlessly put both asylum seekers and seafarers in danger. Provisions in the Migration and Maritime Powers Legislation Amendment Act 2014 which facilitate boat turnbacks and give the Immigration Minister the power to secretly suspend the application of Australian Maritime Law and International Maritime Conventions to any vessel will be repealed.**
- **Labor condemns any government payment to people smugglers.**

**Para 221** To support Australia's strong border security regime, Labor will maintain:

- ~~An architecture of excised offshore places; and~~
- ~~The non-statutory processing on Christmas Island of persons who arrive unauthorised at an excised place, except where other arrangements are entered into under bilateral and regional arrangements.~~

<sup>1</sup>Non-refoulement is the practice of not forcing asylum seekers to return to a country in which they may be persecuted.

- Labor will dismantle the architecture of excision and end the associated non-statutory processing of applications for protection visas.
- Labor will close the detention centres in Nauru and Manus Island and bring all detainees to Australia for processing. Refugees formerly detained in these detention centres and now living in the community will also be offered the option of relocation to Australia.

**Para 224.** Labor's humane and risk-based immigration detention policies and practices will be guided by key immigration detention values, namely:

- ~~Three~~ **Two** groups will be subject to mandatory detention. ~~Labor will strive to ensure that this is for no longer than 90 days.~~
- All unauthorised arrivals, for management of health, identity and security risks to the community. ~~Labor will strive to ensure this is for 90 days only;~~ **Where adult asylum seekers without children arriving by sea are detained for the purpose of health, identity and security checks detention will be capped at a maximum of 30 days unless a court determines otherwise.**
- Unlawful non-citizens who present proven unacceptable risks to the community; and
- ~~Unlawful non-citizens who have been proven to persistently refuse to comply with their visa conditions;~~
- Detention that is indefinite or otherwise arbitrary is not acceptable and the length and conditions of detention, including the appropriateness of both the accommodation and the services provided, will be subject to regular review;
- Detention in an IDC is only to be used as a last resort and for the shortest practicable time;
- People in detention will be treated fairly and reasonably within the law; and
- Conditions of detention will ensure the inherent dignity of the human person.
- **Labor will review the secrecy provisions contained in the Australian Border Force Act relating to conditions in detention centres and the treatment of detainees to ensure that (i) mandatory reporting of sexual and other forms of abuse is required (ii) disclosures about conditions in detention centres made to the body charged with independent oversight of detention centres are exempt from secrecy provisions under the Australian Border Force Act.**

**Para 225.** ~~Labor's humane and risk based immigration detention policies and practices will include a commitment to ensure that after the necessary health, identity and security checks every humanly practical effort will be taken to remove children and their families from immigration detention centres (IDCs) into alternative arrangements~~  
**Unaccompanied children and children of asylum seekers arriving by sea will be placed into community run reception centres together with their families.**

**Para 239.** ~~Protection visa applications~~ **claims** made in Australia ~~should~~ **will** be assessed by Australians on Australian territory.  
**Labor rejects any changes to the definition of 'serious harm' or 'persecution' including any change to the risk threshold from the 'real chance test' to the 'more likely than not test'**

**Para 241.** Those found to be owed Australia's protection under the Refugee Convention and other international instruments ~~should~~ **will** be given permanent protection under the Migration Act.  
**Labor will work to ensure that asylum seekers have access to independent, government-funded legal advice while working through their claims for protection.**

**Para 244.** Labor in Government will abolish Temporary Protection Visas **and provide permanent protection.**