

SPEECH TO REFUGEE RALLY 11.10.15 by Jenny Haines, Co Convenor of Labor for Refugees NSW

Friends,

Last time Labor for Refugees spoke at one of these rallies Tony Abbott was still Prime Minister and boasting about stopping the boats. The Labor Party had not held its National Conference and made SOME changes to its policy. If it wins government at the next election, the Labor Party in government needs to be held to the policy of the National Conference.

Now, Tony Abbott has gone and we now have a new PM who has expressed sympathy for children and families in detention. So far not much has changed and we have yet to see whether his words mean anything.

Labor at its National Conference did NOT have a positive vote on turning back the boats. Due to rank and file agitation in the party and in unions, by L4R and Unions for Refugees and members in branches and unions, Bill Shorten could not put a motion to the conference calling for turning back the boats. HE WOULD HAVE LOST IT. The Right Factions made very clear that they would not vote for it. It was the loss of a Left Motion opposing turnbacks that allowed Shorten to talk about turnbacks after the conference.

Right Unions and Delegates also opposed offshore detention as did a large section of the Left but it was not enough to defeat a motion calling for the closure or offshore detention centres. The vote was not counted but seemed to be two fifths of the conference in favour of closing offshore detention centres, three fifths against.

The conference committed the Labor Party in government to a raft of changes:

- \$450 million to be given to the UN for regional processing in Indonesia so that asylum seekers do not have to get on boats
- An increase in the humanitarian intake to 27,000. (With recent events that obviously has to be revised again)
- Children and families out of detention as much as possible
- A Children's Commissioner to be charged with the protection and safety of children while in detention including the power to prosecute for detention centre abuses
- A commitment to the more humane treatment of asylum seekers in detention.
- The abolition of TPVs
- The commitment of a Labor Government to enshrining our international obligations in federal legislation

None of this is enough to deal with the refugee crisis that Australia faces. And now Australia faces the refugee crisis that the world faces. Australia has agreed to take 12,000 Syrian refugees from Europe but there will obviously have to be more. And no-one is, or should be forgetting, those in our offshore and onshore camps, who need fair processing. We the pro refugee movement must advocate for them all.

Labor for Refugees came out of the National Conference happy and unhappy. We were attacked by some in the Labor Party for being too difficult to negotiate with. But what warms me and sustains me is the reception I get from Labor Party Branch Members when I go out to branch meetings and forums. Members of the Labor Party love Labor for Refugees. Our problem is the intransigence of the majority in the Federal Caucus who remain committed to the policies of deterrence, despite the fact that it has been proven over and over that deterrence policies don't work. There is now an active and vocal minority in the Federal Caucus led by Melissa Parke, Anna Burke, Sue Lines and others. Interesting isn't it that the minority are all women!

I now just want to say a few words about Labor and the Border Force legislation. Julian Burnside said in the media in the past few days -

"With support from a meek Labor party (which has forfeited any claim to decency on this issue) the government introduced the Australian [Border Force Act](#). It came into operation on 1 July this year. Among other things, it makes it a criminal offence, punishable by two years' jail, for a person who works in the detention system to disclose any fact they learn while working in the system.

In broad outline, it defines as an "entrusted person" anyone who works for the immigration department or a contractor to it; it is a criminal offence if an entrusted person "makes a record of, or discloses" protected information. "Protected information" is defined as "information that was obtained by a person in the person's capacity as an entrusted person". Strictly, that means that if a Transfield employee on Nauru wants to establish a relationship with a Wilson Security employee on Nauru and she writes down his mobile number, that would be a criminal offence.

More seriously, if a health worker employed by IHMS on Nauru becomes aware that a refugee child has been sexually assaulted by a Nauru local, it would be a criminal offence to report the fact of that sexual assault.

There is a defence provided by section 48 of the Act. It provides that an entrusted person may disclose protected information if:

(a) the entrusted person reasonably believes that the disclosure is necessary to prevent or lessen a serious threat to the life or health of an individual; and

(b) the disclosure is for the purposes of preventing or lessening that threat.

So, disclosing casual details for the purpose of being a nuisance is still a criminal offence. But disclosing the fact of sexual assaults, self-harm, cruel treatment etc would not be an offence if it was done for the genuine purpose of lessening a perceived serious threat to the life or health of other detainees.

It is fairly clear that all this is intended to discourage people in the detention system from speaking out. Fortunately, some have spoken out.”

Why did Labor vote for this legislation? Very good question! It appears that Richard Marles reassured the Caucus that the current Federal whistleblower legislation sufficiently protected those who intended to speak out. Having had some contact with whistleblower legislation in NSW, I seriously doubt that. And any whistleblower needs union or legal support if they are going to take a matter forward. It is a path fraught with dangers!!!

Labor for Refugees has asked our supporters to consider supporting three motions which Labor for Refugees sent to the Leader of the Opposition Bill Shorten, the Shadow Minister for Immigration and Border Protection Richard Marles and Shadow Attorney General Mark Dreyfus.

The motions that we are recommending to branches and these motions state the position of Labor for Refugees on these issues:

AUSTRALIAN BORDER FORCE

ThatBranch/FEC condemns the passage with Labor’s support, of the creation of the Australian Border Force. We call on any future Labor Govt. to disband the Australian Border Force, return personal to their former duties in the Australian Customs and Border Protection Service and Department of Immigration and distribute any law enforcement powers to the Australian Federal Police who are subject to judicial oversight and the rule of law. The Australian Border Force is a direct threat to open democracy, separation of powers and the rule of law in Australia and should not be tolerated.

AUSTRALIAN CITIZENSHIP AMENDMENT ALLEGIANCE TO AUSTRALIA BILL 2015

ThatBranch/FEC calls on the Federal Parliamentary Labor Party to oppose the proposed laws allowing for the stripping away of Australian citizenship from existing and potential dual nationals without the need for initial judicial process. These laws in their current form are discriminatory and will allow the Immigration Minister to arbitrarily determine whether or not an existing or potential dual national has engaged in conduct which would involve loss of citizenship. In particular, this Branch is opposed to the automatic revocation of citizenship and the deemed revocation of citizenship upon events occurring together with the additional difficulty of having a court overturn a ministerial decision to revoke. Further, this Branch is fundamentally opposed to the wide range of offences, many of which could be quite trivial, being used as a trigger for the purported revocation of citizenship.

MAINTAINING THE GOOD ORDER OF IMMIGRATION DETENTION FACILITIES BILL 2015

This legislation is yet to come before the parliament. It was described by a NSW Supreme Court Judge as legislation that would authorise guards in detention centres beating asylum seekers to death. Sue Lines, Labor Senator from WA sat on the Senate Committee that examined this legislation and wrote a Minority Report for that committee on behalf of Labor opposing the passage of this legislation.

ThatBranch/FEC is opposed to the Maintaining the Good Order of Immigration Detention Facilities Bill 2015 and calls on the Federal Parliamentary Labor Party to oppose it in all of its forms. This Bill could only be necessary to justify the type of abuse of power and excesses that have been seen in recent times in Manus and Nauru and could only encourage such behaviour.

This Branch is deeply concerned that legislation such as this, will inevitably lead to an exacerbation of the institutional abuse which is now being identified in the Royal Commission into Institutional Abuse of Children and the Labor Parliamentary Party should stand against the Bill.”



Thank you for the opportunity to speak to you today. Labor for Refugees will fight on as we have always done since 2001, for a fair and humane policy and practice by Labor in government. The NSW State Conference is scheduled for February next year and we will be there. Since the National Conference, the Tasmanian State Conference has passed a resolution which says.....

“Conference calls on the next Federal Labor Government to:

1. Increase Australia’s humanitarian intake to 27,000.
2. Close off-shore processing centres in Manus, Nauru and Christmas Island and transfer all detainees for on-shore processing.
3. End indefinite detention and implement a 90-day processing rule to be included in the *Immigration Act (Cth)*.
4. Ensure no children are kept in detention. Rather, they will be placed into community-run reception centres together with their families.
5. Re-open Pontville as a community reception centre.
6. Provide legal aid for asylum seekers.
7. Abolish Temporary Protection Visas.
8. Increase funding for the UNHCR.
9. Have mandatory reporting of abuse in detention.
10. Create independent bodies to:
 - 10.1 advocate for asylum seeker children, with the capacity to bring legal action on their behalf;
 - 10.2 provide oversight of detention centres; and
 - 10.3 establish an independent commission to inform the public on the facts on refugees and asylum seekers.
11. Ensure that the provisions of the UN Refugee Convention and UN human rights instruments, to which Australia is signatory, are included in Australian asylum seeker and refugee domestic law and policy.
12. To achieve the cooperation required to reach sustainable regional processing arrangements, reject policies which turn away asylum-seeker boats.
13. Engage with Australia’s neighbours to seek humane and effective solutions to the movement of asylum seekers through the region. This approach will include multilateral engagement, particularly through the Bali process.
14. Maintain levels of foreign aid sufficient to address the root causes, improve conditions and the rule of law in the places from which people are escaping.”

Labor for Refugees commends this resolution to all State Conferences.