

EXPLANATORY DOCUMENT FOR CLAUSE 288

Chapter 9 A fair go for all

AMENDMENT

Clause 288 to be amended by deleting the existing clause as follows:

~~288. 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.~~

and replacing it with:

Labor will provide protection to refugees who are currently residing on Manus Island and Nauru and bring them to Australia in keeping with our obligations under the Refugee Convention. This measure will provide savings of at least \$1 billion per year to be spent on other priorities.

EVIDENCE

1 Contrary to aspects of the Platform

The first point to be made here is that there are many clauses of the Draft Platform which are contravened by keeping children, women and men on Manus and Nauru, effectively in indefinite detention for more than five years. These include the following clauses:

237 Labor believes in dealing with the complex issue of those seeking Australia's protection by giving expression to the values of compassion, justice, human rights, fairness and generosity. These are values which are at the heart of the Australian identity.

238 Labor will treat people seeking our protection with dignity and compassion and in accordance with our international obligations, the rule of law and core Australian principles of fairness and humanity.

239 Labor believes that as a country Australia must not harm people.

286 Labor will ensure that asylum seekers who arrive by irregular means will not be punished for their mode of arrival.

292 Under Labor's policies, the presumption will be that unauthorised arrivals who enter for the purpose of seeking asylum will, after appropriate checks, be detained only if the need is established.

296 Labor will not detain, process or resettle lesbian, gay, bisexual, transgender or intersex refugees or asylum seekers in countries which have criminal laws against any of these communities as it makes these places unsafe environments for all of them.

2 Refugee Convention

According to the statement by United Nations High Commissioner for Refugees Regional Representation in Canberra on 29 August 2017:

“As a signatory to the 1951 Refugee Convention, Australia remains responsible for those who have sought its protection. This includes a duty to consider claims for international protection fairly and efficiently, and to provide refugees and asylum-seekers with a minimum standard of living which is humane and dignified.”

<http://www.unhcr.org/afr/news/press/2017/8/59a558104/australia-coerce-vulnerable-people-return-harm.html>

3 Children, women and men harmed

There have been numerous reports over the past six years of the damage being done to the children, women and men who came to Australia to seek protection and were sent to Manus and Nauru. The Senate Inquiry into *Serious allegations of abuse, self-harm and neglect of asylum seekers in relation to the Nauru Regional Processing Centre, and any like allegations in relation to the Manus Regional Processing Centre* chaired by Senator Louise Pratt reported on 21 April 2017. It is impossible to summarise the evidence of abuse detailed in that report:

“2.6 The committee heard evidence about widespread allegations of abuse and neglect both within RPCs, and in the Nauruan and Papua New Guinean communities. The committee also heard that self-harm and suicidal ideation among refugees and asylum seekers of all ages is extremely common.”

The report also refers to previous inquiries which include:

- **Senate inquiry into the Incident at the Manus Island Detention Centre** after the death of Reza Berati in February 2014.
- **The Moss Review into recent allegations relating to conditions and circumstances at the Regional Processing Centre in Nauru** which released its Final Report in February 2015. The Moss Review found that ‘there were both reported and unreported allegations of sexual and other physical assault’ in relation to children.
- **Senate Select Committee on the Regional Processing Centre in Nauru** which reported October 2015
- The Australian Human Rights Commission published *The Forgotten Children* report in 2014 detailing the damage which detention does to children:
“There were no positive responses to detention - the most common impact on the emotional health of children and their parents were feelings of sadness and ‘constant crying’. Almost all children and their parents spoke about their worry, restlessness, anxiety and difficulties eating and sleeping in detention.” (p58)

In the past few months the courts have ordered that three children be brought to Australia from Nauru

- 1) firstly, in December 2017 the federal court ordered that a pre-teen girl be brought to Australia for treatment as she was at extreme risk of committing suicide if left on Nauru
- 2) secondly in March the federal court ordered that a 10-year-old boy who had attempted suicide several times must be brought from Nauru to Australia for medical treatment
- 3) thirdly in April, the government on the doorsteps of the court in response to an urgent application by the child’s lawyers, agreed to bring a mentally ill girl who had attempted suicide several times from Nauru to Australia

And further in regard to a child who had accompanied his mother from Nauru to Taiwan for medical treatment:

- 4) On 5th May it was reported by The Guardian that a psychiatrist in Taiwan has said that a child accompanying his mother for medical treatment should not be sent back to Nauru because his detention there is causing his mental illness.

4 Cost of the offshore centres

According to the Parliamentary Library, the cost of supporting offshore processing arrangements for the year 2015-16 was \$1.1 billion.

“The Parliamentary Library’s 2016–17 [Budget Review](#) explains that the 2016–17 Budget allocated an additional \$61.5 million in 2016–17 to support offshore processing arrangements. This built on the additional funding of \$342.1 million over two years that was provided in the 2015–16 Mid-Year Economic and Fiscal Outlook (MYEFO) for this purpose. The additional funding, in MYEFO and in the 2016–17 Budget, illustrates the difficulty the Government has in accurately predicting costs in this area. The 2015–16 Budget provided for spending of \$810.8 million for irregular maritime arrivals (IMA) Offshore Management in 2015–16. However, the 2016–17 budget papers indicate that estimated actual spending in that year was almost \$1.1 billion.”

https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1617/Quick_Guides/Offshore#_Total_number_of

The Refugee Council of Australia notes that this figure was even higher for the year 2017-18:

“In 2017-18, \$714 million was forecast to be spent on offshore processing, but it is now estimated that more than double this (\$1.48 billion) will be spent in 2017-18.”

<https://www.refugeecouncil.org.au/publications/2018-2019-federal-budget/>