

## **ASRC OFFICIAL OPENING**

**WEDNESDAY 10 DECEMBER 2014**

This is a great day for ASRC. A great day for the staff, both the full time and more than 1000 volunteers, who make the work of ASRC possible. It is also a great day for the more than 10 000 people the ASRC has helped over the past 13 years who are often desperate and given much needed support, help and advice, especially by the volunteers from ASRC. I would like to thank you all for what you do to make this possible.

This new facility is much larger, much more spacious than the old one. It has, and will make the work of ASRC easier to fulfil than in the older cramped establishment. All of that is an advance. As so often happens in Australia, when there is a real need, people come forth to help with generosity and compassion

Even with good government, there would still be important areas which ASRC would fill, but it would be a lesser role than that which ASRC is forced to play, as a result of the present government's policies. Australia's name has been damaged around the world. We are known as the most inhumane, the most uncaring, the most selfish of all the wealthy countries. It used not to be that way. This is the journey we have travelled since Tampa.

I would like to thank the crossbench Senators who understood, Senator Lambie and Senator Madigan, who despite enormous pressure from a number of different sources, would not vote for a bill giving far too much power to the Minister, to the Government. I would also like to thank the Greens for standing firm for a refugee policy based in values and humanity. The powers enshrined in the bill are appropriate to a country living beyond breach of the “rule of law”.

How did the other Senators give in? How is it they came to support this most wretched government bill? We know of the inducements that the Minister offered, 106 children will be allowed out of detention from Christmas island, but can we believe him? He has made such a commitment before and yet not kept those commitments.

There are hundreds of children in mainland detention in Australia. A handful have indeed been released, but the Minister made the commitment to release those on mainland detention on 19 August. He has had August, September, October, November and part of December and they are still in detention. Is he going to release them before Christmas? Not very likely. Is he going to release them next year? Maybe he will change his mind. The crossbench Senators did not get a renewed commitment from the

Minister that they would be released. If he has not met this commitment made months ago, why should he meet the commitments given to the crossbench Senators who supported the legislation?

Why are these children more important than the 167 on Nauru who remain in detention, whose only future is to be released into Nauru, a country and a people who do not want them? The independent Senators did nothing at all to help the 167 children on Nauru. Did they forget them, or do they not count?

25 babies born in Australia are being sent to Nauru with their parents. They have been classified “unauthorised maritime arrivals” and as such, are not eligible ever for resettlement in the country of their birth. They are going to Nauru and if classified as refugees, will presumably be released into Nauru.

The children being released from Christmas Island will not necessarily have a great future. Perhaps the independent Senators forgot this. They may be back in detention or sent home due to the new ‘fast track’ process. Or they may get temporary protection visas which will be reviewed at the end of every 3 years. Every 3 years they will be in limbo. Every 3 years they will wonder if they are going to be sent home. We have been told that they will never settle in Australia. There are 30 unaccompanied

minors with them. They will never see their families again because family reunion is forbidden under temporary protection visas.

The Minister has so often said that all boat people, including children, will not be resettled in Australia. Australia is not on the table as a possibility. So how were the independent Senators persuaded that the legislation is worth supporting? Do they believe the Minister will let a few through in breach of his much repeated commitment that boat people will never be allowed to settle in Australia? It is just not realistic. He is not going to do it.

Senator Xenophon, in his speech in the parliament, said that his support is conditional on the changes taking place, which presumably include the promises made by the Minister.

Unfortunately for Senator Xenophon, the legislation has passed and he has met his part of the bargain, but on all the records, the government is poor at meeting commitments or keeping promises.

I want to be very clear on one point. The crossbench Senators, who supported this legislation, believing they had considerable concessions, have committed a political error of fundamental proportions. Whatever one thinks of the concessions, the error they have committed has done infinitely greater harm to our

democratic structures. Our democratic system depends on the “rule of law”, it depends on due process, on properly produced evidence, on precedents and on a process that is open to appeal by a higher authority. This legislation gives to the Minister, Scott Morrison now, or whoever it may be in the future, total arbitrary, dictatorial, tyrannical powers over the lives and fortunes of asylum seekers. It destroys the “rule of law” as we know it.

Under the UN Refugee Convention, which Menzies signed onto in 1954, boat people were not illegal. The Treaty says that those fleeing terror often travel by unorthodox means and often without papers. You could not go to a tyrant and say you have killed half my family, I want a passport and visa to leave this wretched country before you kill the other half of my family. It tears up international law, concerning what is called non-refoulement. We must not send people back to countries where they might be subject to torture. This government now says people can change their behaviour, they can modify their behaviour and if they modify their behaviour they won't be subject to torture. Or they can live in another part of the country and they won't be subject to torture. How naïve, how ignorant can this government be?

The Minister's decisions are absolute, they are not subject to review. The determination procedures have been short-circuited

to such an extent that any legitimate examination of a boat person's case would be almost impossible. This is a far cry from the Australia we used to know, but it is today's Australia.

In short then, the government is no longer committed to the UN Refugee Convention. This new law strips out references to the Convention. They are replaced by a new definition of refugee that drops the long standing commitment to non-refoulement. The law states that '*... it is irrelevant whether Australia has non-refoulement obligations in respect of an unlawful non-citizen*'. This means that Australia can now return an asylum seeker to a country where they have been known, or know they may be tortured. The new law removes any existing checks and balances that provide protections for those seeking asylum.

Secondly, the new law gives totally unreasonable power to the government, specifically to the Minister for Immigration. He has more power over the fate of individuals than does the Prime Minister, the Foreign Minister, the Attorney-General, or any other Minister.

The Minister will now decide the fate of asylum seekers, whether they are eligible for a visa, whether they are sent back to where they came from, even though torture may be a possibility. There is no review from the Minister's decision. The Minister can push

an asylum seeker boat back the sea and leave it there. He can block an asylum seeker from making a protection claim on the vaguely defined grounds of 'character' or 'national interest'. His reasons are secret. He can detain people without charge, deport them to any country he chooses, even if it's a place where they have been known to be tortured.

The Minister's powers are outside the "rule of law", they are beyond appeal. He has the powers of a tyrant. We should not pretend that this is just a minor change. It presents a destruction of democratic process.

Thus, the crossbench Senators, Xenophon, Wang, Lazarus, Day, Leyonhjelm and Muir are wrong because their grievous political error has betrayed Australian democracy. They have cooperated by tearing up international conventions, practices of international law, all necessary if we are ever to establish a better and a safer world. The legislation reinterprets our own law and whatever safeguards there may have been in it, are now destroyed.

The concessions the crossbench Senators exacted from the government, important as they may be to some individuals, are miniscule compared to the damage that these crossbench Senators have accomplished.

We might spare a thought for the future. Today the bill applies to asylum seekers but it establishes a new practice beyond the “rule of law”. If there is another group that this government does not like will it extend that practice to them?

Let me end on a happier note. I again congratulate ASRC for what they have achieved, for the work that they collectively do in assisting over time, thousands of individuals and for their advocacy for values and principles which are important to all of us.

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