



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



HOUSE OF REPRESENTATIVES
ANTI-PEOPLE SMUGGLING AND
OTHER MEASURES BILL 2010

Second Reading

SPEECH

Tuesday, 16 March 2010

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES

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Questioner
Speaker Robert, Stuart, MP

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Mr ROBERT (Fadden) (7.35 pm)—I rise to speak on the Anti-People Smuggling and Other Measures Bill 2010. This bill purports to be about stopping people smuggling. To this end it amends the Criminal Code 1995 and the Migration Act 1958 to create and harmonise offences and penalties in relation to people smuggling. It amends the Migration Act 1958, the Proceeds of Crime Act 2002, the Surveillance Devices Act 2004 and the Telecommunications Interceptions and Access Act 1979 to make a range of consequential amendments that will enable foreign intelligence to be collected in certain circumstances and clarify that only the Minister for Defence and the Minister for Foreign Affairs can advise the A-G on the need to issue a warrant for the collection of foreign intelligence. It also amends the ASIO Act 1979 to enable ASIO to carry out its intelligence function in relation to border security.

The amendments will create a new offence of providing material support or resources towards a people-smuggling venture. It will establish in the Migration Act an aggravated offence of people smuggling which involves exploitation or danger of death or serious harm. It will apply minimum penalties of eight years imprisonment with a non-parole period of five years, the maximum penalty being 20 years or \$220,000 or both to these new aggravated offences and to multiple offences. The offence of providing material support does not apply to a person who pays smugglers to facilitate their own passage or that of a family member to Australia.

Whilst this bill is supported—because widening powers and offences does make sense—this bill still does not address the core problem of people smuggling. Though its title—the Labor government is fond of titles; Building the Education Revolution is a classic case in point—of Anti-People Smuggling and Other Measures Bill may sound grandiose, the bottom line is that this government has watered down the border protection laws to the point where the new laws are acting as a magnet to attract people to this country's shores. On election eve the current Prime Minister of this country promised to turn the boats back, but, as the recent inquiry into the explosion on SIEV-36 revealed, by April 2009 the PM had clearly changed this promise. He just forgot to tell anyone. Yet people smugglers know.

So let us recap exactly what this Labor government has done to our border security regime to create the current illegal immigrant problem—the magnet that is drawing people to our shores. Let us step through each of the changes to understand the magnitude of what this irresponsible government has done to water down our laws. On 8 February 2008 the last refugee leaves Nauru. The PM stands there and says that the Pacific solution is closed. On 12 March 2008 the minister reviews the case of 61 people in long-term detention of more than two years. On 13 May, in the 2008 budget papers, we see an increase to the humanitarian program to 13½ thousand places, with a focus on Africa, Asia and the Middle East. On 23 May 2008 there is the finalisation of the review of people in long-term detention, with 31 people either granted visas or considered visas. On 29 July 2008 we see reforms to immigration detention policy. Detention in immigration centres is now a last resort and for the shortest time. There is a risk based approach to detention with a focus on community detention, and the department has to justify the detention to those in detention. It needs to be reviewed every three months.

On 22 November 2008 we see an overhaul of the citizenship test, including the deletion of mandatory questions. On 18 March 2009 there is the announcement of intentions to abolish detention debt and the introduction of legislation to achieve that. On 12 May 2009, in the budget, we see an increase to the humanitarian program to 13,750 places. On 25 June we see detention values announced in 2008 introduced through legislation through the migration amendment bill. The bill embeds in law the principle that people be detained based on the risk they pose and be held for the shortest practical time. On 1 July 2009 work rights are provided for asylum seekers so that people who have remained lawfully in Australia and actively engaged with the department to resolve their visa status are permitted to work. This overturned the previous 45-day rule, where only those who apply within 45 days are granted work rights. On 8 September last year legislation abolishing detention debt was passed. Starting it all, of course, was the end of the temporary protection visas and the immediate granting of permanent protection visas.

All of these steps slowly dismantled, brick by brick, the wall that stopped asylum seekers coming to Australia. It is patently clear that since the Prime

Minister began this border protection rollback in 2008 92 boats and over 4,000 people have arrived illegally on his watch—24 boats and over 1,000 asylum seekers in the last 10 weeks alone. The Prime Minister may pontificate in question time and bring up statistics from a decade ago, but it does not change the fact that the previous coalition government stopped the boats in their tracks. They got the number down to zero. Now it is back to 92. Clearly something has changed, and what it has been is these numerous, brick-by-brick reductions in the border protection regime. Every tent, every donga, every demountable that is erected on Christmas Island is an admission of Labor's immigration failure. To quote the words of the Deputy Prime Minister uttered in a different life, 'another boat, another policy failure'.

In the first two months of 2010 we have had more than three times the number of people arrive illegally by boat than in the last six years of the coalition government. 2010 truly is Labor's year of the people smuggler. Knowing full well that Labor cannot spin to the people smugglers—they know only too well the magnet that is pulling them—this government instead tries to spin to the Australian people. Labor claims that the recent surge in illegal boat arrivals is all about international push factors. It is nothing to do with the government—they cannot control anything—it is the push factors that are directing boats to our shores. Yet since the last surge in illegal boat arrivals a decade ago the number of asylum applications in Western countries has fallen by almost 40 per cent. Indeed, data released by the UK government Home Office showed that in 2009 asylum applications in the UK, Canada and the US all declined but in Australia they increased by 30 per cent. Where, may I ask, are the so-called international push factors? In the UK asylum applications in the December quarter fell by 30 per cent.

The Rudd government says that the spike is due to regional conflicts in Afghanistan and Sri Lanka. The government knows only too well that the Sri Lankan traffic largely dried up over the previous summer, yet they refuse to advise on the nationality of recent arrivals of groups. I suggest it is to obscure this fact. But let us look at Afghanistan. There are 2.8 million Afghan refugees in the world today. This compares to about 3.8 million in 2001, when the coalition was dealing with the issue. 2.6 million Afghan refugees are living in Pakistan and Iran. More than half of these have never lived in Afghanistan. Since 2002, a year after Australian Defence Forces were sent to Afghanistan to fight the Taliban, 5.6 million Afghans have returned home, including over 278,000 in 2008.

Afghanistan is a long way from Australia. It is hard to see how Afghanistan is a regional conflict.

More importantly, there are closer asylum options available. Countries surrounding Afghanistan that have signed the 1951 UNHCR convention and the 1967 protocol include Iran, Yemen, Kazakhstan, Kyrgyzstan, Tajikistan and Turkmenistan; yet still they are drawn to Australia. The UNHCR figures for the first half of 2009 showed that there was a 27 per cent increase in asylum applications in Australia in 2008, yet the international average in industrialised countries was only 11 per cent—27 per cent in Australia, yet in the rest of the world's 44 industrialised nations the average is 11 per cent. This government has the hide, the temerity and the blatant effrontery to look the Australian people in the eye and say: 'It's the push factors that are doing it; nothing to do with our policy. There is nothing we can do about it; it is all the push factors.'

Let me be absolutely and patently clear: the evidence just presented makes it abundantly clear that push factors are not the problem. If they were, we would be seeing the same trends in other countries, but we are not. We are seeing other countries slow down and, indeed, decline while Australia speeds up. There can be only one reason that would explain the volume in this data—that is, there are pull factors at work. And the only pull factors that exist are the things that have changed and those are the Rudd Labor government policy changes that are watering down the border protection laws.

I understand the ALP's agenda. I understand the forces of the Left and the forces that have required this to be pulled down. I know why the Labor government is doing it, but why not just come out and say: 'Look, it is Labor government policy. We've got to appease the Left. We have to water the whole shooting match down. There are no push factors; we accept responsibility.' Why try and spin the bleeding obvious?

Some would ask the question, 'Why stop the boats?' As the shadow minister for immigration quite rightly says, 'People die on boats,' including a reported 105 Afghans who set off from Indonesia last October never to be heard of again. We should not encourage a practice that encourages people to put their lives at risk for the profit of organised crime.

It is a fact that less than one per cent of the world's refugees will be granted permanent settlement in one of just 16 countries this year, including Australia. The need is great and places are few. That is a fact. Every place provided to someone who comes illegally by boat is a place denied to someone we might otherwise choose to help, and it is because our humanitarian assistance is capped at a certain number of places. For every one person we take who has paid a people smuggler, another person drops off the list for that year. It is a fact.

We resettle over 11,000 refugees annually in Australia, making us the most generous resettlement nation per capita on earth. We are one of the original signatories to the 1951 Convention relating to the Status of Refugees and as a nation of immigrants—my family came here in the mid-1800s—we continue to bat above our weight in support of UN peacekeeping operations and humanitarian work overseas. I think Australians are generous, compassionate and fair-minded people, taking in the most resettlement refugees per capita on earth. Our nation has a lot to be proud of. Our citizens can hold their heads high on the world stage when talking about resettlement, refugees and illegal immigrants.

We all understand that asylum seekers are seeking a better life. They are seeking better economic conditions. They are seeking a better freedom. These desperate souls pay abhorrent people smugglers upwards of US\$20,000 a head to take them to Australia. But the problem, as many in our nation know, is that before these people arrived on our shores they were already free. When they left their homes and travelled through multiple countries like Pakistan, Malaysia and Indonesia, they were free once they crossed the border of each of those countries. The persecution from which they fled had ceased when they crossed over the border of their country. The problem is that freedom in itself is not enough; they want an economic freedom of the kind offered by Australia. I do not blame them. I think Australia is the greatest nation on earth. Why wouldn't people want to come to this great country? But many of those seeking asylum have lived for many years in one of these countries while preparing to try and come here.

In Africa there are thousands of people who cannot flee to different countries to secure freedom. They cannot afford US\$20,000 a head to board a boat. Indeed, the brutal and harsh reality in Africa is that many would starve to death, be raped or killed if they even left the refugee camp that offers them scant, if any, protection. These are truly desperate people who need asylum. And it is a similar story in numerous countries across the world.

The reality is, as unpalatable as it may sound, that for every illegal immigrant who has crossed multiple borders, and in many cases has spent many years in another country looking for that better freedom, and comes by boat to Australia and seeks asylum a truly deserving refugee is shunted further down the list. Our humanitarian programs will only stretch so far. At present, they are the most generous in the world—to the credit of our great nation—but they are at capacity. That is unfair.

It is unfair that people should be able to pay their way on a boat to literally jump the queue. It is unfair that

processes can be jumped or ignored because you can pay what amounts to modern day slave traders, called people smugglers, to get you to Australia. It is unfair that people will die in refugee camps waiting for their application to be processed while others pay to get a head start. I think this is how many Australians view the current illegal immigrant question. There is no question that our processes must be compassionate. They must be humane. Yet watering down our border protection laws is neither if it leads to a flood of human misery, which it has.

This is the great irony of what the Prime Minister and the Labor Party have done. In fundamentally watering down the border protection laws brick by brick by brick—laws that were responsible for reducing boat arrivals to zero—the floodgates have been opened. Let us not kid ourselves. The push factors have not changed. Indeed, the evidence suggests that push factors may well have declined. But the pull factors have increased because the watered-down policy is creating a surge in demand. As the surge continues, whilst the Prime Minister so ironically seeks Indonesian assistance, refugees seeking freedom continue to wait, pushed further down the line because of those seeking a better economic freedom.

This bill will make a modicum of difference, but only on the margins. The surge of asylum seekers will not stop until Labor Party realises the errors of their policy ways and reintroduces tough border protection laws. The Prime Minister stood there and said, as an election promise, that he would be tough on illegal immigrants and border security. Clearly the results, the watered-down policy, the resultant illegal immigrants, the 92 boats and indeed 24 this year show that promise has been well and truly broken, if it was even kept at the beginning at all.

At present this year—Labor's year of the people smuggler!—will only get worse unless the government acts. I can guarantee the nation that, when this nation tosses this incompetent government out, we on this side will act quickly, decisively and with maximum effect. As the Leader of the Opposition said, we have stopped the boats before, and we guarantee you we will stop them again.