

Law Council calls for fair go for those seeking asylum

The Law Council of Australia remains concerned at the treatment of asylum seekers in Australia in light of the recent detention at sea of a group of people and the decision to transport them to the mainland for processing.

It is a fundamental principle of the operation of the rule of law that all asylum seekers under the control of Australian authorities, regardless of the strength of their claims for asylum, be treated with fairness and dignity and be provided with the opportunity to have their protection claims considered by the Australian government in accordance with law.

The interception of two boats by Australian authorities, the subsequent return of a number to Sri Lankan authorities and the detention at sea of others on those boats has raised questions about the extent to which Australia remains committed to the spirit of the Refugee Convention, an instrument which Australia is not only obliged to follow under international law but had a lead role in drafting.

At minimum, Australia is obliged not to return people to a place where they have a well founded fear of persecution including torture or the death penalty.

The Convention also requires that people be given access to independent legal advice and have the opportunity to articulate any protection claims that they may have – regardless of any arrangements that Australia may have entered into with officials from foreign governments.

Law Council of Australia President, Mr Michael Colbran QC, called for the Government to proceed in a transparent manner, saying it is a fundamental tenet of the Rule of Law that the Executive arm of Government is subject to the law and accountable for its actions.

“It is of concern to the whole community that the Australian Government adheres to the principles of natural justice and fairness, with due regard for our obligations under international law and our reputation as a key proponent of human rights.

“It is critical that, unless some overriding issue of security is invoked, the Government is open and clear about the events which have taken place,” Mr Colbran concluded.

The Law Council will continue to monitor the High Court’s consideration of these issues with great interest and urges the Australian Government to ensure that those men, women and children looking to Australia to provide protection get a fair opportunity to make their claims and have those claims assessed according to law.

Vanessa Kleinschmidt, Director, Government and Corporate Affairs

P. 02 6246 3716 // M. 0408 014 110

E. vanessa.kleinschmidt@lawcouncil.asn.au // www.lawcouncil.asn.au