

RESOLUTION ON AUSTRALIA

Since the 2014 implementation of a ban by the Australian government on any commentary on its asylum seeker policy as administered on Manus Island and Nauru, as well as mainland detention centres, professional journalists and other parties, including teachers, medical and mental health workers employed in these detention centres, have been silenced

The Australian government's 2013 policy **Operations Sovereign Borders** has increased the cost of visas and made it more difficult for journalists to gain access to immigration detention centres. This policy cloaks the activities of the Australian government in secrecy, minimising the opportunity for free and critical coverage of Australia's asylum seeker policy.

The **National Security Legislation Amendment Act (No. 1) 2014** makes it a crime, punishable with up to 10 years' in prison, to disclose any special intelligence operation, which includes operations related to asylum seekers. The Act provides minimal protection to journalists seeking to report on information passed to them by whistle-blowers.

Under the **Telecommunications (Interception and Access) Amendment (Data Retention) Act of 2015** customer data, including of journalists, must be stored by telecommunications providers for two years, which allows Australian law enforcement agencies to obtain warrants to access the data of journalists. While the legislation provides some safeguards on the confidentiality of whistle-blowers, the test to determine whether the public interest in accessing particular data outweighs the right to confidentiality is one undertaken in a process that is not transparent, and undermines the rights of whistle-blowers. This in turn deters journalists from doing their work of reporting on government policy.

The **Border Force Act of 2015** makes it a crime punishable with two years' imprisonment for anybody working for the Australian Immigration Department to report on what they see while working in detention centres. Coupled with **Operation Sovereign Borders**, this casts Australia's policies into a veil of secrecy that is not consistent with the democratic workings of government.

PEN International is aware of at least one writer - Kurdish Iranian journalist Behrouz Boochani - who is effectively marooned and - with others - in a desperate mental state on Manus Island, where UN High Commissioner for Human Rights is urging Australia to end its abusive offshore processing of asylum seekers given shortcomings in the legal framework including a lack of national capacity and expertise in processing, and poor physical conditions within open-ended, mandatory and arbitrary detention settings. This can be harmful to the physical and psycho-social well-being of transferees. On 26 April 2016 this year, the full bench of the PNG Supreme Court ruled that Australia's regional processing centre on Manus Island was illegal, since the asylum seekers who were seeking asylum in Australia were forcefully brought into PNG under Australian Federal Police Escort and held at the MIRPC against their will.

PEN International is deeply concerned by these laws and denounces the Australian government's suppression of access to information and open comment on the treatment of asylum-seekers

The Assembly of Delegates of PEN International, meeting at its 82nd World Congress in Ourense, Galicia (Spain), 26th September to 2nd October 2016, calls on the Australian government to:

- Repeal these unnecessary and draconian laws;
- Support journalists and their sources by amending the data surveillance laws to remove restrictions placed on journalists to allow them to undertake research and gather information from whistle-blowers;
- In line with the recommendations of OHCHR, end the offshore processing of asylum seekers in Nauru and Manus, and ensure that asylum seekers and those in immigration detention in offshore processing centres, including Behrouz Boochani, are provided with adequate legal protection in line with Australia's commitments under international law.

