Refugee Action Campaign
Canberra

There is an alternative to cruelty

A humanitarian and rational refugee policy for Australia

Summary

An alternative policy to the politics of punishment and cruelty is possible.

The aims of such an alternative policy are:

- to deal with refugees and asylum seekers in a humanitarian and non-punitive manner
- to fulfill Australia’s international obligations in dealing with refugees and asylum-seekers
- to accept a realistic share of refugees commensurate with Australia’s population and wealth
- to provide for, wherever possible, the safe transport of refugees from transit countries to resettlement in Australia
- to encourage acceptance of refugees within the Australian community

Policy proposals

In order to achieve these aims we recommend:

1. A significant increase in the numbers of refugees which Australia accepts.
2. Rapid and fair processing of applications for asylum in transit countries such as Indonesia.
3. Regional dialogue with neighbouring countries to allow for facilities and cooperation in assisting the processing of applications of asylum seekers seeking to come to Australia or other countries and to allow for their safe transportation and resettlement if successful.
4. An international dialogue with other developed countries about increasing their resettlement of refugees.
5. No discrimination in the processing of applications for asylum based on
the manner of arrival of the asylum seekers.
6. No detention of asylum seekers to take place in other countries such as PNG or Nauru. Asylum seekers reaching, or intercepted while attempting to reach, Australia to be brought to the Australian mainland for checks and processing.
7. The briefest possible period of detention for health, security and identity checks, with an absolute maximum of 30 days allowed. Processing of asylum applications on-shore to be carried out while the applicants live and work in the community. The major urban detention centres to be converted to their original function as hostels to provide accommodation and support for those who choose to stay there while seeking more permanent arrangements.
8. Full legal rights to be available to asylum seekers while their applications are being processed and full rights of appeal to be restored.
9. No deportations of asylum seekers to places where they face persecution. No support for regimes attempting to prevent the flight of asylum seekers.

1. A significant increase in the numbers of refugees which Australia accepts.

RAC does not call for a specific number of humanitarian visas to be issued. The numbers will depend, amongst other things, on the need at the time and therefore will be subject to change. But we do argue for a significant increase. Until August 2013, the number of such visas issued each year was just 13,750. In that month it was increased to 20,000 but then subsequently reduced again to 13,750 by the Abbott government. In return for support for his “legacy caseload” bill, Scott Morrison promised to increase it to 18,750 over the next four years if the bill passed but only if the "legacy caseload" of 30,000 asylum seekers was already cleared.

This does not compare well on an international basis. Compared to other countries, Australia is the 62nd on a per capita basis and on a GDP basis, 74th.¹

The numbers currently being accepted represent only one refugee for every 1,724 people in Australia or 0.058%. They are just 3.76% of Australia’s total population increase in the year to mid-2014 and 6.46% of net overseas migration.²
Doubling or tripling the refugee intake would not make any major impact on the Australian population, congestion or on the workforce.

2. Rapid and fair processing of applications for asylum in transit countries such as Indonesia.

In many cases, asylum seekers have taken extraordinary risks to flee their home countries and arrive in countries which do not provide permanent protection. Only then can they apply for asylum. In international law, no one is able to do so within their own country. Yet in countries such as Indonesia and Malaysia, asylum seekers cannot work or have access to education for their children. Even to obtain an interview with the UNHCR – the first small step to achieving refugee status - was reported at the beginning of 2014 to take between 7 and 11 months. They are effectively forced to move on – some by choosing the only option left to them – an attempt to reach Australia by boat. But the Australian government does not provide an alternative to that course. Tiny numbers from Indonesia are accepted as refugees in Australia.

Processing of refugee applications should take place rapidly and fairly in these countries of transit. This is not a new policy. It was the one which Australia used in the 1970s and 1980s. Although Australia eventually resettled over 185,000 Indochinese refugees, under the system which Australia adopted then, most arrived having been processed in other countries to which they had fled such as Malaysia. They then flew from there to Australia safely. Fewer than 60 boats and a little over 2,000 people arrived in Australian waters during the entire Indochinese refugee crisis.

The current extreme Australian policies of deterrence might prevent asylum seekers from attempting a boat voyage to Australia, but can only divert them into
equally or more risky ways to find asylum or force them to languish in places where they cannot settle permanently or live freely.

We call for the Australian government to allow for the rapid processing of asylum applications in transit countries such as Indonesia. In the 1980s Australian immigration officers were appointed to Embassies and Consulates for this task. Australian Embassies and Consulates would almost certainly require increased staffing levels to process these refugee applications. Similarly Australia would need to increase its pledge to UNHCR as also occurred in the 1980s. However, such funding would be a small fraction of the huge costs of offshore detention.

3. **Regional dialogue with neighbouring countries to allow for facilities and cooperation in assisting the processing of applications of asylum seekers seeking to come to Australia or other countries and to allow for their safe transportation and resettlement if successful.**

Increasing the applications dealt with in Indonesia and other transit countries can be done immediately by Australian Embassies and Consulates there. More permanent facilities funded by Australia and established with the agreement of the host country would make the process much more efficient and humane. In conducting this processing Australia should take advantage of the assistance of the International Organisation for Migration and the United Nations High Commissioner for Refugees – both of which should be the recipients of increased Australian funding. The establishment of an Orderly Departure Program (ODP) – such as that engaged in by the Australian government in the 1970s and 1980s – would facilitate such cooperation. This proposal has already been made by the Australian Catholic Migrant and Refugee Office in 2012 and by many other organisations and advocates.

4. **An international dialogue with other developed countries about increasing their resettlement of refugees.**

The developing countries of the world adjacent to the places from which asylum seekers are fleeing are the most likely to host them. But these countries – such as Jordan and Pakistan – are among the least able to support them. Australia must push for a broader increase in the number of asylum seekers accepted in the developed countries. But, of course, this is not possible until the internationally reviled, inhumane and ungenerous policies currently in existence in Australia
remain. Under the ODP at least 650,000 Indochinese refugees were ultimately resettled to developed economies such as the US, Canada and Australia.

Such a dialogue could occur under the auspices of the UNHCR.

5. **No discrimination in the processing of applications for asylum based on the manner of arrival of the asylum seekers.**

Since mid-2013, the policy of both Labor and Liberal governments has been that no asylum seekers arriving by boat will ever be resettled in Australia, whatever the merits of their claims or the perils they face at home. This is unprecedented both in Australia’s dealings with refugees and internationally. The international Convention Relating to the Status of Refugees, to which Australia acceded in 1954, makes no distinction between different methods of arrival in its provisions for how signatories should treat those seeking asylum.

6. **No detention of asylum seekers to take place in other countries such as PNG or Nauru. Asylum seekers reaching, or intercepted while attempting to reach, Australia to be brought to the Australian mainland for checks and processing.**

Until 2001 and the introduction by John Howard of the infamous “Pacific Solution”, this policy we propose was the norm in dealing with asylum seekers arriving or attempting to arrive by boat. Today Australia is the only country in the world to send asylum seekers to another country and pay for their detention there. The Italian Navy has reported rescued as many as 150,000 asylum seekers attempting to reach Europe. None have been sent to other countries or “towed back”. So-called “off-shore processing” is not about processing under the current policy. It is forced and illegal incarceration in poor countries under appalling conditions.

Off-shore detention must end.
7. Processing of asylum applications on-shore to be carried out while the applicants live and work in the community. The briefest possible period of detention for health, security and identity checks, with a maximum of 30 days allowed. The major urban detention centres to be converted to their original function as hostels to provide accommodation and support for those who choose to stay there while seeking more permanent arrangements.

The mandatory detention of people arriving in Australia seeking asylum was not introduced until 1992. This was in response to a very small number of boat arrivals – just 18 between November 1989 and January 1994 - carrying mostly Cambodians, Vietnamese and Chinese. Under the system before mandatory detention was introduced, there was provision for people to be arrested for illegal activity. But until mandatory detention, asylum seekers were not generally detained and when they stayed in government facilities, these were normally unfenced.

In contrast the people currently held under Australia’s mandatory detention regime are imprisoned indefinitely behind razor wire. Yet they have committed no crime, they have been charged with nothing nor have they been sentenced to any period of incarceration.

This detention has been shown to be extremely deleterious to mental health and has led to numerous instance of self-harm and a number of cases of death in detention.

The system of detention centres – both in other countries – PNG and Nauru – and in Australia is extremely expensive. The Australian Churches Refugee Taskforce calculated that the costs to the Department of Immigration and Border Protection for off-shore detention alone (excluding the costs to other Departments such as Defence and DFAT and commercial-in-confidence contracts) for 2013-14 were at least $3.28 billion. That amounted to $1.3 million for every person incarcerated on Manus Island or Nauru.

The same report pointed out that in that year, 2013-14 Australia would spend “almost two-thirds as much locking up in detention a few thousand people seeking asylum, as the entire UNHCR spend in the last financial year assisting tens of millions of refugees and asylum seekers worldwide.”

By contrast, the costs of processing refugee applications while asylum seekers live in the community – as once happened – are massively lower. People living in the community while on bridging visas cost the Australian taxpayer at most one-tenth of the cost of those begin held in any kind of detention.
Reasonable reporting requirements for asylum-seekers have been shown to be effective and followed by the great majority of asylum seekers while their claims were being processed.  

8. Full legal rights to be available to asylum seekers while their applications are being processed and full rights of appeal to be restored.

Since the introduction of mandatory detention in 1992, and even more recently, the legal rights of asylum seekers to seek justice have been gradually stripped away. Rights of appeal have been severely curtailed and asylum seeker rights to seek redress before Australian courts has been limited. Full legal rights before the courts – which are available to Australian residents and citizens and to tourists and other visitors – should also be available to asylum seekers.

Refugee status decisions to be reviewable by an independent tribunal focussed on Australia's international obligations regarding the rights of asylum seekers and full judicial review on appeals should be restored.

9. No deportations of asylum seekers to places where they face persecution. No support for regimes attempting to prevent the flight of asylum seekers.

The most basic of obligations which Australia has to asylum seekers under the agreements which it has signed is to refrain from returning asylum seekers to places where they face persecution – the principle of non-refoulement. Yet, shamefully, Australia has returned such people – both to Afghanistan and to Sri Lanka. In each case, there is evidence that these same people have been imprisoned and tortured.

Furthermore, Australia is now cooperating with regimes such as that in Sri Lanka from which asylum seekers are fleeing, to prevent them doing so. Although Sri Lanka has been internationally condemned for human rights violations – especially against the Tamil minority – Australia has provided support to the Sri Lankan government in the form of patrol boats to prevent these persecuted people leaving.

It must be an absolute principle of Australian foreign and immigration policy to protect the rights of asylum seekers by allowing them to leave places in which they fear persecution and to refuse to return them to such places.
10. **Support for initiatives that promote peace or conflict resolution in source countries.**

In the Australian context, warfare is a significant ‘push’ factor for many asylum seeker arrivals. The repression of minorities and ethnic conflicts are major factors present in all of the main countries from which asylum seekers come.\(^1\) As well as supporting people who have already become refugees and asylum seekers, Australia should support efforts to promote peace and conflict resolution in source countries. Australian foreign policy and Australia foreign aid should be directed, as far as possible, to peaceful and just resolution of such conflicts in order to mitigate the circumstances which cause people to flee.

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7 Ibid. p.4


