

3. MYTHS AND FACTS ABOUT REFUGEES AND ASYLUM SEEKERS

“Boat people are illegal immigrants.”

Asylum seekers who arrive in Australia by boat are neither engaging in illegal activity, nor are they immigrants.

The UN Refugee Convention (to which Australia is a signatory) recognises that refugees have a lawful right to enter a country for the purposes of seeking asylum, regardless of how they arrive or whether they hold valid travel or identity documents. The Convention stipulates that what would usually be considered as illegal actions (e.g. entering a country without a visa) should not be treated as illegal if a person is seeking asylum. This means that it is incorrect to refer to asylum seekers who arrive without authorisation as “illegal”, as they in fact have a lawful right to enter Australia to seek asylum.

In line with our obligations under the Convention, Australian law also permits unauthorised entry into Australia for the purposes of seeking asylum. Asylum seekers do not break any Australian laws simply by arriving on boats or without authorisation.



Grateful to have survived the perilous voyage across the Gulf of Aden, a mother embraces her four-month-old infant, who was born in South Yemen's Kharaz refugee camp. © UNHCR/J. Bjorgvinsson.

Australian and international law make these allowances because it is not always safe or practicable for asylum seekers to obtain travel documents or travel through authorised channels. Refugees are, by definition, persons fleeing persecution and in most cases are being persecuted by their own government. It is often too dangerous for refugees to apply for a passport or exit visa or approach an Australian Embassy for a visa, as such actions could put their lives, and the lives of their families, at risk. Refugees may also be forced to flee with little notice due to rapidly deteriorating situations and do not have time to apply for travel documents or arrange travel through authorised channels. Permitting asylum seekers to enter a country without travel documents is similar to allowing ambulance drivers to exceed the speed limit in an emergency – the action would be ordinarily be considered illegal, but the circumstances warrant an exception.

It is also incorrect to refer to asylum seekers as migrants. A migrant is someone who chooses to leave their country to seek a better life. They decide where they migrate to and they can return whenever they like. Refugees are forced to leave their country and cannot return unless the situation that forced them to leave improves. Some are forced to flee with no warning; significant numbers of them have suffered torture and trauma. The concerns of refugees are human rights and safety, not economic advantage.

“Boat people are queue jumpers.”

The idea that boat people are “queue jumpers” is based on misconceptions about how Australia’s Refugee Program and the international refugee resettlement system actually work.

Australia's Refugee Program has two components. The **onshore** component is for people who apply for refugee status after arriving in Australia. Most enter as visitors or students; some arrive without authorisation. The onshore component is a legal obligation which is part of Australia's responsibilities as a signatory to the UN Refugee Convention.

Applying for protection onshore is not a means of "jumping the queue" or bypassing the "correct" process of applying for protection. In fact, applying onshore is the *standard procedure* for seeking protection. According to the definition in the UN Refugee Convention, refugees are persons who are outside their country of origin. This means that you cannot apply for refugee status if you are inside your own country. In order to be recognised as a refugee, you must leave your country and apply for refugee status onshore in another country. Every refugee in the world has, at some point, entered another country to seek asylum.

Because Australia receives so few onshore asylum applications, we can easily admit all of those who reach Australia who are found to be in need of protection. Dozens of poorer countries, however, receive a much larger number of refugees and require assistance from other countries to fulfil their protection obligations. Australia provides this assistance through the **offshore** component of our refugee program. This is a voluntary scheme under which Australia resettles recognised refugees who have been referred by the UN. The offshore component also includes a special visa category for people who might not meet the UN criteria for refugee status but who are nonetheless subject to serious human rights abuses overseas.



A group of women wait outside the Djibouti Refugee Agency office in Yemen to register as asylum seekers. The wait could take days. Once registered, they are transferred to Ali Adeh where UNHCR provides assistance. © UNHCR/J. Bjorgvinsson

The UN resettlement system does not work like a queue. The term "queue" implies that if you join the end, you are guaranteed to reach the front within a certain amount of time. This is not the case. Refugees are prioritised for resettlement according to need, not according to how long they have been waiting. These needs fluctuate and are continuously reassessed. For example, conditions in a refugee-producing country may improve, allowing refugees from that country to return home if they wish; or conditions in a refugee-hosting country may deteriorate, placing the refugees in that country in greater need of resettlement. A person who has been in a refugee camp for one year may be prioritised for resettlement ahead of a person who has been in a camp for 10 years, if the former's need for resettlement is greater.

In 2008, just 88,800 of the world's 15.2 million refugees were resettled – well under 1%. If the mythical resettlement "queue" did exist and all of the world's refugees were in it, a newly recognised refugee would, on current trends, have to wait 170 years for resettlement.

"Asylum seekers who arrive on boats take places away from genuine refugees in overseas camps."

Refugees who seek protection onshore are no less "genuine" than refugees who are resettled from offshore. Refugees who are resettled in Australia, regardless of whether they apply onshore or offshore, must meet the criteria for refugee status outlined in the UN Refugee Convention. These criteria do not make any distinction between those refugees who arrive with authorisation and those who don't.

The myth that onshore applicants take places away from offshore applicants does have some basis in truth. However, this is *not* because onshore asylum seekers are trying to rot the system or "jump the queue" – they have a right to seek asylum onshore and Australia has a legal and moral obligation to protect them. Rather, it is the direct result of Australian Government policy. The onshore and offshore

components of Australia's refugee program are numerically linked, which means that every time an onshore applicant is granted a protection visa, a place is deducted from the offshore program.

The linking policy blurs the distinction between Australia's obligations as a signatory to the Refugee Convention (addressed through the onshore component) and our voluntary contribution to the sharing of international responsibility for refugees for whom no other durable solution is available (addressed through the offshore component). The perception that there is a "queue" which onshore applicants are trying to evade is created by a policy choice which could easily be changed. No other country in the world links its onshore and offshore programs in this way.

"Asylum seekers who arrive by boat present a security threat to Australia."

The majority of asylum seekers who have reached Australia by boat have been found to be genuine refugees. Between 85% and 90% have typically been found to be refugees, compared to around 40% of asylum seekers who arrive via plane with a valid visa. Between July 30 2008 and June 30 2009, 217 refugee assessments on boat arrivals were carried out on Christmas Island. Of these, 206 or 95% were approved and the applicants granted protection visas.¹



Arriving on the shores of Yemen after crossing the Gulf of Aden, a new arrival enjoys his first meal in three days. © UNHCR/J. Bjorgvinsson

The UN Refugee Convention excludes people who have committed war crimes, crimes against peace, crimes against humanity or other serious non-political crimes from obtaining refugee status.² Any person who is guilty of these crimes will be denied refugee status. Additionally, all asylum seekers must undergo rigorous security and character checks before being granted protection in Australia. It is therefore highly unlikely that a war criminal, terrorist or any other person who posed a security threat would be able to enter Australia as a refugee.

It is also improbable that a criminal or terrorist choose such a dangerous and difficult method to enter Australia, given that asylum seekers who arrive through unauthorised channels and without

valid travel documents are subjected to mandatory detention and undergo more rigorous security checks than any other entrants to Australia.

"Mandatory detention of unlawful asylum seekers is essential to maintaining Australia's border security."

Australia is one of few nations in the world which imposes mandatory detention on asylum seekers. In the Western world, this policy is largely viewed as abhorrent, especially as the individual has not committed a crime by seeking asylum and detaining them for this reason breaches international law. In many European nations, only those individuals deemed to be a high security risk are detained.

There is no research to suggest that individuals are likely to abscond when being processed in the community. This is because they have a vested interest in cooperating in order to gain full protection rights. Treating people with dignity and presuming innocence rather than guilt helps to reinforce their trust in the system.³ In 2005, Australia introduced a community-based detention system which allowed a small number of asylum seekers to live unsupervised in the community, supported by the Red Cross. Of the 244 people placed in this program between July 2005 and May 2009, the Department of Immigration and Citizenship reports that only two (less than 1%) have absconded.⁴

“Tightening our borders will stop people smugglers and prevent asylum seekers from making risky journeys.”

Asylum seeker flows are primarily affected by war, unrest, violence and human rights abuse, not domestic policies in refugee-hosting countries. Most people do not wish to leave their homes, families, friends and everything they know and hold dear. They do so as a last resort, because of a need to escape persecution. Asylum seekers are running away, not running to. Their desire for safety for themselves and their families is paramount and they will do whatever it takes to achieve that.

Everyone agrees that we should stop people smuggling ventures that exploit asylum seekers and place them in danger. No one wishes to see asylum seekers board unreliable vessels and make risky journeys to Australia. However, penalising desperate and vulnerable people – who have committed no crime and are in need of protection and support – is not the answer. For refugees fleeing persecution, torture and the threat of death, even the most punitive methods of deterrence employed by Australia will be preferable to the conditions they have left behind.

A policy of deterrence also fails to take into account the conditions which force refugees to flee their homes and undertake risky journeys in the first place. Unless human rights issues in refugee-producing nations are addressed, and regional cooperation on refugee protection is enhanced, asylum seekers will be driven to seek out people smugglers and undertake risky journeys.

“Australia is being swamped by asylum seekers.”

Compared to other refugee-hosting countries, Australia receives a very small number of asylum applications. In 2009, Australia received 6 170 onshore asylum applications, just 1.6% of the 377 160 applications received across 44 industrialised nations. Of these applicants, 2 726 arrived by boat – a mere 0.7% of the total number of asylum applications in industrialised nations. In the same year, over 77 000 asylum seekers arrived by boat in Yemen, a developing country with a GDP per capita of just over \$US1 000 (compared to Australia’s GDP per capita of over \$US45,000)⁵; and almost 1 500 asylum seekers arrived by boat in Malta, a country of less than 420 000 people.⁶

No. of irregular arrivals by sea, by country 2006-09⁷

Country	2006	2007	2008	2009
Australia	60	148	161	2 726
Greece	9 050	19 900	15 300	10 165
Italy	22 000	19 900	36 000	8 700
Malta	1 800	1 800	2 700	1 470
Spain	32 000	18 000	13 400	7 285
Yemen	29 000	29 500	50 000	77 310

Most nations do not break down their asylum seeker statistics by mode of arrival (i.e. sea, land or air). When considering total asylum seeker figures however, Australia’s number of in-country (onshore) claimants is very small. When examining total asylum claims in the developed world between 2005 and 2009, Australia does not once enter the top ten.⁸ Furthermore, countries with much smaller populations than Australia receive far more asylum claims. Sweden, for example, has a population less than half the size of Australia’s but received almost four times as many onshore asylum applications in 2009 (see table below).

No. of onshore asylum applications, by year, by country 2006-09⁹

Country	Total Pop.	2006	2007	2008	2009
Australia	21.9 million	3 520	3 980	4 770	6 170
Austria	8.3 million	13 350	11 920	12 840	15 830
Canada	33.3 million	22 910	28 340	36 900	33 250
Germany	82.1 million	21 030	19 160	22 090	27 650
Sweden	9.2 million	24 320	36 370	24 350	24 190
United Kingdom	61.4 million	28 320	28 300	31 320	29 840
United States	307.7 million	51 880	50 720	49 560	49 020

“Australia takes more than its fair share of refugees.”

The overwhelming majority of the world’s refugees are situated in the developing world in countries neighbouring their own, many in camps but many also living under uncertain and difficult circumstances in urban settings. The UN refugee agency, UNHCR, estimates that only 16% of the world’s refugees seek help outside their region of origin.¹⁰

At the end of 2008, Pakistan was hosting over 1.7 million refugees, asylum seekers and potential asylum claimants. Other developing nations hosting over half a million refugees and asylum seekers include Syria, Iran, Jordan and Venezuela. These figures refer solely to people who have left their own nations and sought assistance in a second country. Germany was the only developed nation to host in excess of half a million refugees. At 582 735 in 2008, Germany’s refugee population dwarfed Australia’s total of 20 919.¹¹



In a cramped basement in Syria's Saida Zeinab neighbourhood, Iraqi and Syrian teacher volunteers give free catch-up classes to Iraqi school children in hopes they will be able to join Syrian students at the start of the school year. © UNHCR/B. Heger.

Australia does, however, make an essential contribution to addressing the global refugee situation. Due to the fact that Australia receives so few onshore asylum claims, Australia has been able to establish the third largest resettlement program in the world behind the USA and Canada. Australia’s resettlement program provides refugees who are unable to return home with a chance at a better life. In 2008, of the 13 507 people granted visas under Australia’s Humanitarian Programs, almost 6 500 were resettled refugees.¹²

“Australia’s refugee program must have strict limits, otherwise we will end up hosting millions of refugees.”

No country in the world hosts “millions” of refugees. Only two countries – Pakistan and Syria – currently host in excess of one million refugees but neither hosts more than two million. The high numbers of refugees in these countries are largely the result of major and prolonged conflicts in Afghanistan and Iraq respectively.

Australia is geographically isolated and, being an island, has no land borders with any other country. These factors make Australia one of the most difficult countries in the world for asylum seekers to reach. Australia also has universal visa requirements and carrier sanctions. Because of this, it is highly unlikely that Australia will ever receive the large numbers of onshore asylum applications that other countries experience.

It is also important to recognise that, even if Australia agreed to resettle every refugee identified by the UN as being in priority need of resettlement (a highly unlikely prospect!), Australia still would not be hosting millions of refugees.¹³ There may be millions of refugees in the world, but no one is suggesting that all of these refugees should be resettled in a third country. Other solutions, such as voluntary repatriation and settlement in countries of first asylum, are preferred to resettlement in a third country.

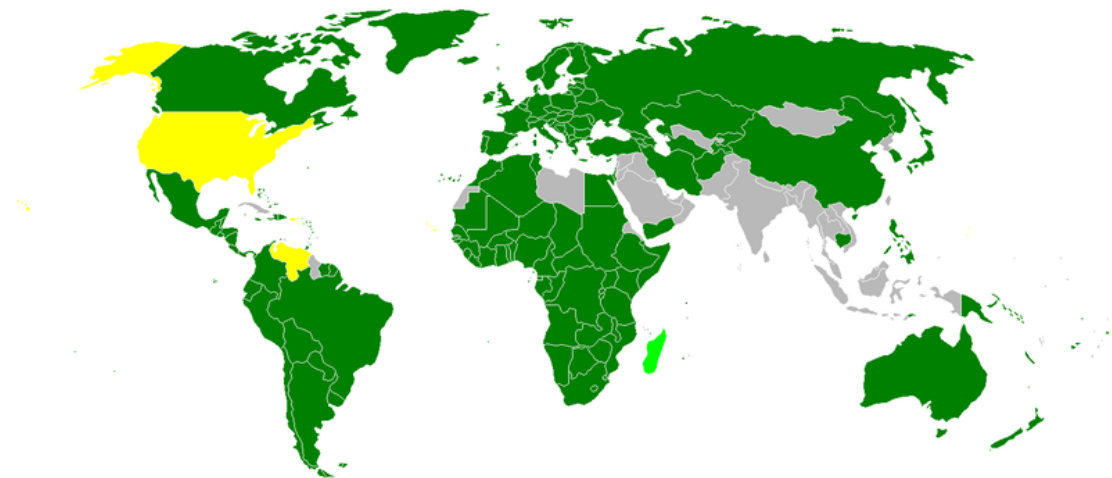
“Asylum seekers should apply for protection outside Australia.”

All human beings have a right to seek and enjoy in other countries asylum from persecution, which makes refugee protection a universal and global responsibility. As a signatory to the UN Refugee Convention and as a member of the international community, Australia shares in this responsibility. There is no reason why Australia should be exempt from receiving and processing onshore asylum claims while expecting other nations to fulfil this responsibility. As a developed nation with well-established systems for refugee status determination and strong settlement support infrastructure,

Australia is well-placed to play a leading role in refugee protection both in the Asia-Pacific region and globally.

Australia plays a particularly important role in the Asia-Pacific, as very few countries in the region are signatories to the Refugee Convention (see map below). If a country is not a signatory to the Convention, it is under no legal obligation to provide protection to refugees. The UN may have a presence in these countries and can assist in determining refugee status, but this is not always the case. Refugees in non-Convention countries are generally treated as illegal immigrants and may face criminal charges, imprisonment or forcible return to their country of origin if they are caught by immigration officials. They are typically unable to work legally, own or rent property, access social security or send their children to school and often face violence, homelessness and destitution.

Signatories to the 1951 Refugee Convention and its 1967 Protocol. Dark green nations are parties to both treaties while light green nations have signed only the Convention, and yellow nations have signed only the Protocol. Non-signatories are marked in grey.



Furthermore, the mere fact that a country is a signatory to the Refugee Convention does not mean that it is able to provide *effective* protection to asylum seekers and refugees. This is especially the case when that country does not have any the necessary resources or commitment to provide a level of protection that is consistent with its obligations under the Refugee Convention. For example, of the countries in the Asia-Pacific which have signed the Convention:

- ✿ China has not passed national legislation to facilitate implementation of its international obligations under the Convention.
- ✿ Cambodia was recently implicated in the forcible deportation of asylum seekers to China (a gross contravention of international refugee law).
- ✿ Papua New Guinea and Timor-Leste are developing countries with limited resources and infrastructure available to implement systems for credible refugee status determination and resettlement.

When Australia fails to fulfil its obligations under the Refugee Convention or other international human rights treaties, it sends a clear message to other countries in the region that these commitments are unimportant. Australia cannot expect other countries to uphold their international legal commitments while we refuse to uphold our own. Improved regional cooperation on refugee protection issues will not occur if Australia does not uphold its obligations under international refugee and human rights law.

“If someone can afford to pay a people smuggler thousands of dollars to travel to Australia, they cannot be a ‘genuine’ refugee.”

Economic status has no bearing on refugee status. A refugee is someone who has a well founded fear of being persecuted because of their race, religion, nationality, membership of a particular social group or political opinion. It makes no difference whether a refugee is rich or poor – the point is that they are at risk of, or have experienced, persecution. Many refugees who come to Australia are educated middle-

class people, whose education, profession or political opinions have drawn them to the attention of the authorities and resulted in their persecution.

“Refugee camps are perfectly safe. Why can’t these people just go there?”



*In Dadaab refugee camp in Kenya, the quantity of water is limited and pumps are unable to handle the capacity needed every day.
© UNHCR E. Hockstein.*

The majority of the world’s refugees live in countries next to their country of origin, many of them in camps. Some camps can hold hundreds of thousands of people, in conditions that are, at best, very difficult. Of the 6 million refugees in what UNHCR classifies as “protracted situations”, the average length of time spent in a refugee camp is 17 years. Food and water supplies are unpredictable and refugee inhabitants are often not allowed to leave or work outside the camp. Violence, especially rape, is common.¹⁴

A growing number of refugees are unable to reach refugee camps or seek refuge in areas where there are no camps (such as urban areas).

“These situations don’t go on forever. Refugees should be granted temporary protection until they can go home.”

The majority of the world’s refugees do eventually return home. This is the most durable solution for the largest number of refugees, both in terms of what is feasible and what is desired by the refugees themselves. UNHCR participates in the voluntary repatriation of thousands of refugees per year, launching programs when they feel conditions in refugee-producing countries have improved so that people are no longer at risk of persecution.

For many refugees, however, this is not possible. Certain ethnic or religious groups have historically been the victims of persecution due to their minority status, for example the Hazaras in Afghanistan. A change in government or an end to general hostilities may not be enough to ensure their safety.

Additionally, past temporary protection policies have been proven to extremely damaging to refugees. The Temporary Protection Visa (TPV) regime, introduced by the Howard Government in 1999, was inhumane, discriminated against some asylum seekers purely because of their method of arrival, caused needless suffering and contravened Australia’s international human rights obligations. Refugees on TPVs were unable to apply for family reunion and could not receive adequate settlement assistance or have the stability and security of permanent protection. The psychological damage caused by TPVs because of these factors has been well documented by medical experts.

Temporary protection is also an ineffective strategy for reducing unauthorised arrivals. In the years that followed the introduction of TPVs, boat arrivals increased dramatically. 3 721 asylum seekers arrived by boat in 1999 and 5 516 asylum seekers arrived in 2001.¹⁵ This represented an increase of 48%. From 2002 onwards boat arrivals began to decrease, however this corresponded with a global decline in asylum seeker numbers.¹⁶

It is also illogical to attribute the fall in boat arrivals to the TPV policy. As this class of visa denied recipients family reunification rights, families of refugees in Australia – the majority of them women and children – were left with no other option to escape persecution than to pay people smugglers and undertake the same journey to Australia. After TPVs were introduced, the proportion of women and children amongst the boat-borne asylum seekers more than tripled, from 12.8% of boat arrivals in 1999, to 27.6 % in 2000, to 41.8% in 2001.¹⁷

“Refugees don’t contribute to Australian society in any meaningful way.”

By definition, refugees are survivors. They have survived because they have the courage, ingenuity and creativity to have done so. These are qualities which we value in Australia. The challenge for Australia is to assist newly arrived refugees to process the experiences of their past and rebuild their lives in Australia. If we do this we will reap the benefits of the qualities and experiences they bring to Australia.

Research carried out by the Refugee Council of Australia has shown that refugees make important economic, civil and social contributions to Australian society. Australia’s refugees and humanitarian entrants have found success in every field of endeavour, including the arts, sports, media, science, research, business and civic and community life. For further information, see

http://www.refugeecouncil.org.au/docs/resources/Contributions_of_refugees.pdf

Just some of the many Australian high achievers who once were refugees include scientists Sir Gustav Nossal and Dr Karl Kruszelnicki, 2009 Victorian of the Year Dr Berhan Ahmed, painter Judy Cassab, comedian Anh Do, filmmaker Khoa Do, author Nam Le, academic Associate Professor My-Van Tran, Dr Anita Donaldson, poet Juan Garrido-Salgado, painter and restaurateur Mirka Mora, actor Henri Szeps, broadcasters Les Murray and Caroline Tran, Australian Rules footballer Alex Jesaulenko, footballer Atti Abonyi, swimmers John and Ilsa Konrads, newspaper editor Michael Gawenda, architect Harry Seidler, business people Sir Peter Abeles, Larry Adler, Ouma Sananikone and Judit Korner, public servant Tuong Quang Luu and politicians Jennie George and Nick Greiner.



Sports broadcaster Les Murray tells of his escape from Hungary as an 11-year-old, at the NSW launch of Refugee Week 2008.
© RCOA.

“Refugees and asylum seekers receive higher social security payments than Australian aged pensioners.”

A refugee who has permanent residency in Australia receives exactly the same social security benefits as any Australian-born person in the same circumstances. Refugees apply for social security through Centrelink like everyone else and are assessed for the different payment options in the same way as everyone else. There are no separate Centrelink allowances that one can receive simply by virtue of being a refugee.

Centrelink payments are calculated at exactly the same rate for both refugees and non-refugees. A single person with no children applying for Special Benefit or the Newstart Allowance (whether or not he or she is a refugee) will receive \$462.80 per fortnight, whereas a single person on an Age Pension payment will receive a fortnightly payment of \$644.20. A single age pensioner therefore receives over \$180.00 more per fortnight more than a single refugee (or a single Australian-born person) who qualifies for Special Benefit or Newstart. Australian citizens and permanent residents with dependent children on lower to middle incomes (including refugees) may also be eligible to receive Family Tax Benefits or Parenting Payments; however none of these allowances are paid at a higher rate than the single age pension.¹⁸

Asylum seekers are not entitled to the same forms of financial support as citizens or permanent residents. The Asylum Seeker Assistance (ASA) Scheme provides assistance to some eligible asylum seekers who are in the process of having their refugee status determined. The ASA Scheme offers income support to cover basic living expenses, at a rate well below Centrelink benefits.

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 - 9 Ibid, p. 13. Population figures rounded to nearest 100, 000, as of 2008. Population figures obtained from the International Monetary Fund’s *World Economic Outlook Database* (April 2010), <http://www.imf.org/external/pubs/ft/weo/2010/01/weodata/index.aspx>
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 - 11 Ibid; see Appendices.
 - 12 Department of Immigration and Citizenship (2009), Fact Sheet 60 – Australia’s Refugee and Humanitarian Program, Commonwealth of Australia, <http://www.immi.gov.au/media/fact-sheets/60refugee.htm>
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 - 17 Evans, C. (2009). *Media Release: Opposition must come clean on Temporary Protection Visas*, <http://www.chrisevans.alp.org.au/news/1009/immimediarelease30-02.php>
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