

# REFUGEE COUNCIL OF AUSTRALIA

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## MEDIA RELEASE

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### A CASE STUDY OF AUSTRALIA'S COMMITMENT TO FAMILIES

“The case of the 12 and 14 year old brothers claiming asylum at the British Consulate in Melbourne, demonstrates the failure of Australia's current policy of mandatory non-reviewable detention to treat children of asylum seekers in a humane and legally defensible way. We must remember that when Governments talk of ‘tough treatment for asylum seekers’ we are referring to real people, like the Bakhtiari family. Refugees are children, mothers, fathers and grandparents, people with disabilities, and many of whom have survived torture,” said David Bitel, President of the Refugee Council of Australia.

The case of the Bakhtiari family highlights a number of problems with Australia's hard-line treatment of unauthorised arrivals:

– Australia is breaching its obligations under international law to ensure the unity of the family under the Refugee Convention, the Convention of the Economic, Social and Cultural Rights, and the Convention on the Rights of the Child. The Refugee Council is deeply concerned at the distress this restriction is causing to both the families themselves and our international reputation. It is no answer to these obligations to rely on Australia's domestic laws which are clearly in breach of these obligations;

– genuine refugees may be permanently separated from their families as a result of Australia's Temporary Protection Visa regime which improperly removes family reunion rights. Denial of family reunion effectively presents refugees with a ‘Sophie's Choice’: they can either risk the danger of returning to their country of origin to be with their families, or stay in Australia and never see their spouse and children again;

– the best interest of the child is not at the centre of Australia's response to asylum seekers. If it was, the Bakhtiari family have been placed in alternative care, not a detention centre, or at the very least at a detention centre in Sydney or Melbourne so that they could see their father. The anxiety that is

caused by long-term separation from family is avoidable in many cases. Alternatives to the current policy of mandatory detention that do not involve disruption of the family unit must be explored; and

– detention is not an appropriate place for ‘at-risk’ children as demonstrated by the numerous expert submissions to the Human Rights Commissioners Inquiry into Children in Detention. The Refugee Council renews its call to the Australian Government to adopt the Alternative Detention Model. The model, developed by refugee experts and endorsed by the Human Rights Commission, sets out an achievable alternative policy which addresses the Government’s desire to control access into Australia AND complies with our international human rights obligations.

“The case of the Bakhtiari family demonstrates the failure of the Australian Government to exercise its duty of care to children in detention, its disregard for our obligations under international law, and its apparent willingness to separate refugee families for political gain. Sadly, this is not an isolated case. There are alternatives which the Council has proposed and calls on the Government to adopt,” Mr. Bitel concluded.