

REFUGEE COUNCIL OF AUSTRALIA

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STATEMENT ON "ILLEGAL" BOAT ARRIVALS

In recent weeks Australia has seen an unprecedented number of people seeking to enter by irregular channels. Much publicity has surrounded their arrivals and there have been many statements about "the need to send a message that people cannot just turn up on our doorstep and expect to stay".

The Refugee Council of Australia is concerned that in the publicity surrounding the new wave of arrivals, a number of important facts are being ignored:

- Every western country is a destination for asylum seekers. Australia cannot expect to be immune.
- Victims of persecution choose countries such as Australia as their destination because they are seen as countries where democracy, respect for human rights and the rule of law prevail.
- It is a fundamental human right (as set out in Article 14 of the Universal Declaration of Human Rights) that a person can seek protection from persecution.
- To use the term "illegals" in relation to this group gives the wrong impression. They have not committed a criminal offence. They have simply arrived without the documentation (passport and visa) deemed necessary to enter Australia lawfully. In many instances boat arrivals will seek to "legalise" their entry by making an application for a protection visa.
- Equally, they should not be described as "queue jumpers" since under international law there is no such thing as a queue for victims of persecution to join.
- As a party to the 1951 Convention Relating to the Status of Refugees, Australia is bound by law to consider the claims of anyone seeking protection.
- One of the most important principles of international human rights law is the principle of non-refoulement. Under this, countries are bound not to return to their country of origin a person with a well founded fear of persecution or who will face torture or any form of cruel, inhuman or degrading treatment on return.
- The number of people seeking asylum in Australia is extremely small compared to other western countries: 8,257 in the year ended June 1999 compared to 51,795 in the United Kingdom and 98,644 in Germany in the same period.
- The number of asylum seekers coming to Australia this year is not appreciably higher this year than last. The difference is in the profile of people seeking protection.
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- The countries from which the most recent boat arrivals have come are ones with very poor human rights records.
- In the year ended 30 June 1999, approximately 97% of Iraqis and 92% of Afghans who applied were found to meet the strict definition of refugee status by either the Department of Immigration or the Refugee Review Tribunal.

- The fact that a person has the money to pay for travel is irrelevant in determining whether he or she has a well founded fear of persecution.
- If the Government adopted the United Nations High Commissioner for Refugees' Detention Guidelines and released unauthorised arrivals once their identity was established and an application for refugee status was lodged, the number of people in immigration detention centres would be cut significantly.
- The Government's response to the current arrivals has to take into account the reasons why so many people are on the move. A concerted international effort has to be made to address the breakdown in protection in countries of first asylum that is forcing people to look elsewhere for protection.

From these facts, some simple truths emerge:

- Australia is not "under threat".
- Australia cannot simply "pack these people off back home".
- the people coming to Australia have rights under both Australian and international law that our Government is bound to observe.

In making these points, the Refugee Council is not denying that the recent arrivals are arriving by routes where there is a high level of exploitation. Throughout the world there are unscrupulous people who will capitalise on people's fear and desperation to make money. Commercial trafficking in people for any reason is a crime and it is important that steps be taken to protect victims from it.

While doing this, however, we must not lose sight of the fact that amongst those who are trafficked are people who have fled in fear of their lives and who have come to this country seeking our protection. Australia must not lose sight of our legal and moral obligations towards them.

The new arrivals do present a challenge for this country. But rather than responding in a knee jerk fashion, the Government should seek to depoliticise the situation and work collaboratively with the opposition, UNHCR and NGOs to find a way to deal with the challenge that is consistent with our legal obligations and which recognises that Australia has long been, and should continue to be, a country of compassion.