



Refugee Council of Australia

24 June 2011

A BETTER WAY: A RISK-BASED APPROACH TO IMMIGRATION DETENTION

As Australians conclude the celebration of Refugee Week 2011, around 5500 people who have come to Australia seeking freedom from persecution remain locked away in secure immigration detention facilities. Australia is the only industrialised society to subject asylum seekers to indefinite mandatory detention.

The Refugee Council of Australia calls on the Australian Government to replace its policy of indefinite mandatory detention with one that uses detention purely for the purposes of managing genuine risk. Detention needs to be, as government policy states “used as a last resort and for the shortest practicable time”. With this as the policy foundation, RCOA and its members wish to work with the government to ensure a revised approach includes:

- Restricting detention of asylum seekers to a maximum of 30 days, in which time an analysis of identity, health and security risks can be undertaken.
- For those asylum seekers posing no risks, granting an appropriate bridging visa and providing adequate support to live in the community.
- Ensuring that anyone not released within 30 days has their case for continued detention reviewed independently.
- Presuming against the detention of children and families, working to develop a practical model that sees families undergo prompt health, security and identity checks.

This approach would enable any community concerns about potential risks to be managed appropriately while ensuring that Australian practice does not create further harm to vulnerable people attempting to flee persecution. It would also allow for people to continue to be detained if there genuinely are grounds for doing so.

By moving people promptly through detention centres, the overall detention population will be greatly reduced and there will be no need for detention in remote locations. All processing should be done in capital cities where access to communities, health professionals, legal practitioners and necessary support is readily available. In 2011-12, the Australian Government intends to spend more than \$800 million on immigration detention, much of it to be spent on costs associated with remote detention. This is not money well spent. The Minister for Immigration and Citizenship has stated that “detention is not designed as a deterrent; it is a management tool for people who come without visas or passports by boat and require health, security and identity checks”¹. We believe that there are far more efficient and less harmful management tools available to government.

The number of asylum seekers detained by the Australian Government is at unprecedented levels. The most recent statistics from the Immigration Department show that, as of 20 May 2011, 6191 asylum seekers were held in immigration detention. Of these, 5627 asylum seekers were held in secure detention facilities and 564 were in community detention. Around 4000 asylum seekers had been detained for six months or more. Despite the many reasons given for the length of detention, the Department’s statistics show that 6036 asylum seekers (97.5% of the total) are still waiting for the first stage of the process, the Refugee Status Assessment, to be completed.

¹ *The Age*, 10 February 2011
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The extraordinary nature of Australia's indefinite mandatory detention policy was highlighted at a recent UNHCR roundtable in Canberra on alternatives to detention. The roundtable included input from the US, UK and New Zealand governments, as well as international research on detention policies of governments across the world. No other country which has signed the Refugee Convention chooses to detain asylum seekers in the way that Australia does. Policies do vary but, for the most part, they are based on ensuring that vulnerable people are released from detention as quickly as possible following a brief risk assessment.

The official Australian Government position is that detention of asylum seekers without visas is administrative for the purposes of managing health, identity and security risks. In practice, detention is arbitrary because, for most people, they are held for the entire period it takes to determine their refugee status. If there is no finding that an asylum seeker poses a threat, the person should be released and monitored while the refugee status determination process is conducted. Australia can turn to many other nations for such models.

The Australian Government's failure to implement a process based on risk management sees thousands of men, women and children being detained needlessly. The impact of this is seen in the ever-increasing incidences of self-harm among detainees, the tragic toll of suicides and the unrest within immigration detention facilities. The government was warned on many occasions by its official advisory bodies and by mental health experts of the inevitable impacts of subjecting large numbers of vulnerable people to indefinite detention. The warnings were ignored and the consequences have been disastrous.

The Minister for Immigration and Citizenship did take advice on the pressing need to move children and their families out of secure detention facilities into community detention. Since October, the Minister has approved applications to move 678 children and 631 adult family members² into living arrangements which allow them full freedom of movement while their status is being determined. This highly successful expansion has demonstrated clearly that national security is not compromised when asylum seekers are permitted to live within Australian communities.

Our main concern with the expansion of community detention is that has, to date, been applied to too few asylum seekers in detention. We acknowledge that release into community detention is complicated when conducted within a framework of indefinite mandatory detention. However, that is little comfort to the thousands of vulnerable asylum seekers who remain indefinitely in secure detention. The policy of indefinite mandatory detention is the central problem – and must be reviewed urgently.

In line with our previous statements, our organisation maintains our opposition to the Australian proposal to transfer asylum seekers to Malaysia and to proposals to re-establish extra-territorial processing of asylum seekers in Papua New Guinea or the Pacific region. In addition, we call on the Australian Government to begin processing the asylum claims of the 274 people who have been in limbo on Christmas Island since the announcement of a possible Malaysia deal.

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This statement is endorsed by:

Asylum Seekers Resource Centre (ASRC)
Brigidine Asylum Seekers Project
Coalition for Asylum seekers, Refugees and Detainees (CARAD)
Hotham Mission
Immigration Advice and Rights Centre (IARC)
International Detention Coalition (IDC)
Refugee Advice and Casework Service (RACS)
Uniting Church in Australia

² As of 15 June 2011