



Refugee Council of Australia

31 August 2011

REFUGEE COUNCIL WELCOMES HIGH COURT RULING

The Refugee Council of Australia has welcomed today's High Court ruling against the Federal Government's deal with Malaysia to swap asylum seekers and refugees.

RCOA chief executive officer Paul Power said the High Court decision was a monumental one which emphasised the critical importance of legal protections for asylum seekers, even in circumstances where Australia is trying to expel them.

"The Refugee Council opposed the plan to transfer asylum seekers to Malaysia because of the very difficult circumstances faced by asylum seekers and refugees in that country," he said.

"Malaysia has not signed the Refugee Convention and lacks any domestic legislation or practical measures to protect refugees," Mr Power said.

The High Court held that the Minister cannot declare a country valid for processing of asylum seekers unless it is legally bound by international law or its own domestic law to:

- provide access for asylum seekers to effective procedures for assessing their need for protection
- provide protection for asylum seekers pending determination of their refugee status
- provide protection for persons giving refugee status pending their voluntary return to their country of origin or their resettlement in another country

The High Court also ruled that unaccompanied asylum seekers under 18 years of age can not lawfully be removed without the Minister's written consent.

Mr Power said the phenomenon of asylum seekers arriving in Australia by boat was unlikely to change appreciably until the Government focussed its attention on working with Asia-Pacific countries to bolster refugee protection standards in the region.

"The High Court today clearly highlighted the unsatisfactory level of protection for refugees and asylum seekers in Malaysia," he said.

"This lack of protection for refugees and asylum seekers is wider concern in South-East Asia and South Asia," he said.

"Unless Australia shows genuine leadership in strengthening protection for asylum seekers and refugees in South-East Asia and South Asia, people will continue to flee persecution in this region and arrive in Australia by boat," he said.

Mr Power also called on the Federal Government to confirm Australia was honouring its commitment to resettle 4000 refugees from Malaysia.

Suite 4A6, 410 Elizabeth Street
Surry Hills NSW 2010 Australia
Phone: (02) 9211 9333 • Fax: (02) 9211 9288
info@refugeecouncil.org.au • Web: www.refugeecouncil.org.au
Incorporated in ACT • ABN 87 956 673 083

The Refugee Council of Australia represents
non-government organisations and
individuals working with and for refugees
in Australia and around the world

“In previous statements, the Government has maintained this would still occur regardless of the number of asylum seekers Australia had planned to send to Malaysia,” he said.

“Minister Bowen has made a compelling case for increased resettlement from Malaysia and we trust the Government will honour that commitment,” Mr Power said.

Media inquiries: Andrew Williams 02 9211 9333 or 0488 035 535