



Refugee Council
of Australia

2013 FEDERAL ELECTION: REFUGEE POLICIES OF LABOR, LIBERAL-NATIONAL COALITION AND THE GREENS

This Refugee Council of Australia (RCOA) summary explains the 2013 Federal election policies on refugee issues of the three most influential political forces in Australian politics – the Australian Labor Party, the Liberal-National Coalition and the Australian Greens.¹ The summary is not a critique or detailed analysis of policies. It aims to provide an overview of the public positions of these political parties. RCOA does not endorse any political party but responds to each policy proposal according to its impact on refugees and asylum seekers. RCOA supports efforts to expand and strengthen Australia's Refugee and Humanitarian Program and to build international cooperation aimed at enhancing refugee protection. RCOA opposes efforts to deflect Australia's protection responsibilities to other countries, to weaken the protection provided by Australia to refugees and to limit the scrutiny of Australia's refugee status determination processes and opposes the mandatory indefinite detention of asylum seekers.

AUSTRALIAN LABOR PARTY²

Policy changes since 2010

In government, the Australian Labor Party (ALP) has implemented a number of changes to refugee and asylum policy since the 2010 election including:

- lifting the 2010 suspension of processing of asylum claims from Afghanistan and Sri Lanka;
- expanding mainland detention centre capacity in Darwin, Pontville (Tasmania), Curtin (Western Australia), Scherger (Queensland), Northam (WA) and Melbourne;
- re-establishing offshore processing of asylum seekers at Manus Island in Papua New Guinea (PNG) and Nauru;
- passing complementary protection legislation to protect non-refugees at risk of persecution and torture;
- using Bridging Visas to release asylum seekers who arrived by boat from immigration detention into the community;
- increasing Australia's Refugee and Humanitarian Program from 13,750 places to 20,000 places per year;
- extending the policy of excising offshore islands from the Australian migration zone and applying it to the whole country for asylum seekers arriving by boat, to prevent them from gaining access to Australia's domestic asylum system;
- applying a "no advantage" test to asylum seekers on Bridging Visas who arrived in Australia by boat from 13 August 2012, denying them work rights, access to family reunion under the Special Humanitarian Program and making them liable to be sent at any stage for offshore processing in Nauru and Manus Island;
- introducing a resettlement program for at-risk Afghan people employed to assist Australia's activities in Afghanistan (places drawn from the pool of 20,000 Refugee and Humanitarian visas);

¹ These three parties have more than one representative in the 2010-13 Parliament and are represented in both the Houses of Representatives and the Senate.

² The Labor Party's website is <http://www.alp.org.au/> This summary has been drawn from statements by the Immigration Minister at <http://www.minister.immi.gov.au/tonyburke/media/media-releases/> and http://www.alp.org.au/campaign_media_immigration

- implementing a pilot sponsorship program of 500 places in 2013-14 with sponsors to pay large visa application charges to bring refugee relatives and friends to Australia (the places also drawn from the pool of 20,000 Refugee and Humanitarian visas);
- developing an agreement with New Zealand to resettle 150 refugees per year who arrived in Australia by boat to seek asylum;
- introducing new arrangements with PNG and Nauru to deny asylum seekers refugee protection in Australia.

Transfer of asylum seekers to PNG and Nauru

Asylum seekers who arrive by boat without a visa from 19 July 2013 will not be resettled in Australia if they are found to be refugees. Under MOUs signed between the Australian Government and its counterparts in PNG and Nauru in July, asylum seekers who seek refugee protection from Australia will be sent offshore for processing of asylum claims at a Processing Centre or under community-based arrangements. Asylum seekers recognised as refugees will have the opportunity to be settled in PNG and Nauru. Detention facilities will be expanded on Manus Island and Nauru and other facilities opened in PNG. Under the MOU with PNG, there is no cap on the number of refugees to be settled. The MOU with PNG frames the Regional Settlement Agreement as providing a “disincentive for Irregular Migration and creating increased protection and settlement opportunities for those in need of international protection” and to ensure that “no benefit is gained through circumventing regular migration arrangements”. All costs relating to the Agreement with PNG will be borne by Australia. Special arrangements would apply for vulnerable cases, including unaccompanied minors. Under the MOU, the Government of PNG will not expel or return asylum seekers to another country where their life or freedom would be threatened on Convention grounds. A Joint Committee will be established to oversee the MOU which will meet regularly and be co-chaired by departmental representatives of the respective governments with possible representation from relevant NGOs and service providers where appropriate. The MOU with Nauru acknowledges the limited capacity of Nauru to host asylum seekers and refugees and envisages a “modest” number of refugees being resettled, including family groups and unaccompanied minors. While refugees are eligible for resettlement in PNG and Nauru, they are unable to access citizenship in Nauru and in the case of PNG must meet the requirements of residency and citizenship laws. This includes continuous residency for eight years and the ability to speak and understand Tok Pisin, Hiri Motu or a language indigenous to PNG.

Refugee and Humanitarian Program

The Government expanded the Program from 13,750 to 20,000 places in 2012-13 and would consider progressively increasing the humanitarian intake to 27,000 places – in line with the Expert Panel on Asylum Seekers recommendation – provided the number of asylum seekers arriving by boat significantly decreases. The 20,000 places comprise 12,000 for refugee resettlement and 8,000 places divided between the onshore protection program and the Special Humanitarian Program (SHP). In December 2012, the Government announced it would allocate up to 500 places within the 20,000-place Refugee and Humanitarian Program for a community refugee sponsorship pilot program. Sponsoring organisations will be subject to a two-stage visa application charge regime of between \$20,000 and \$30,000 depending on family composition, as well as airfares and medical screening costs. Organisations are also required to provide humanitarian settlement support for up to 12 months.

“No Advantage” test for asylum seekers

Following the release of the Expert Panel on Asylum Seekers report and recommendations in August 2012, the Labor Government unveiled a “No Advantage” test which applies to asylum seekers who arrived by boat without a visa between 13 August 2012 and 19 July 2013. The “No Advantage” test stipulates that asylum seekers should not gain any benefit by choosing not to seek refugee protection through “established mechanisms” and must wait for permanent protection for the same amount of time they would have waited had they applied through “regional arrangements”. The Government has not announced specific timeframes for permanent protection or resettlement but has proposed that regional benchmarks for resettlement be used to determine an appropriate waiting time. Under “No Advantage”, asylum seekers can reside in the community on 89 per cent of the lowest social security entitlement, are not able to work, cannot access to family reunion and can be sent to Nauru or Manus Island at any time for offshore processing. Family reunion applications of refugees who arrived by boat as asylum seekers before 13 August 2012 are now given lower priority within the Special Humanitarian Program (SHP) while people who arrived by boat as asylum seekers on or after 13 August have no

access to family reunion through the SHP and must apply through the Family Migration Program which has been expanded by 4000 places per year for four years.

Transfer of asylum seekers to Malaysia

In 2011, the Government also announced a Memorandum of Understanding with Malaysia to send 800 asylum seekers to Malaysia in exchange for 4000 recognised refugees. While the deal did not proceed following a successful High Court challenge, the Government remains committed to the arrangement.

Regional refugee protection measures

Following the release of the Expert Panel on Asylum Seekers report, the Government announced \$10 million of additional funding for regional capacity-building activities including support for the United Nations High Commissioner for Refugees (UNHCR) and projects in Indonesia and Malaysia.

LIBERAL-NATIONAL COALITION³

Operation Sovereign Borders

If elected, the Coalition will establish a military-style response to the movement of asylum seekers by boat to Australia, led by a three-star commander reporting directly to the Minister for Immigration. The Coalition will provide new orders to the Royal Australian Navy to tow boats back to their origin where it is safe to do so. Support will also be provided to source and transit countries, in particular Sri Lanka and Indonesia, to intercept vessels departing their shores. The Operation Sovereign Borders Joint Agency Taskforce will comprise four units focused on: Disruption and Deterrence; Detection, Interception and Transfer; Offshore Detention and Assessment; and Return, Remove, Resettle. Operation Sovereign Borders will be overseen by the National Security Committee of Cabinet while an Inter-Departmental Reference Group will also be established. In the first 100 days of a Coalition government, Operation Sovereign Borders will issue protocols to turn back boats when it is safe to do so, start increasing capacity at offshore processing centres, reintroduce Temporary Protection Visas and begin work on resolving the claims of almost 30,000 asylum seekers who arrived by boat and are living in Australia. A Special Envoy will be appointed for two years to work with regional governments as a “trouble-shooter”.

Offshore processing

Offshore processing will be rapidly expanded at Nauru and Manus Island with an additional 2000 places to open on Nauru within the first two months of a Coalition government. Asylum seekers will initially be housed in tents before flat-pack units and longer-term facilities are constructed. Australia will assist and advise on assessment processes and provide training for officials in Nauru and Papua New Guinea.

Reintroduction of Temporary Protection Visas

Under Coalition policy, any asylum seeker who arrived by boat, is already in Australia at the time of the election and subsequently found to be a refugee will be given a Temporary Protection Visa (TPV). No TPV will exceed three years in duration, with the period of time for each visa determined on a case-by-case basis. Refugees will be able to apply again for temporary protection when a TPV expires but each case will be assessed again, with the decision based on current circumstances in the country of origin. Permanent protection visas will not be provided to a TPV holder within the first five years of their first TPV being issued and any decision to grant permanent protection could be done only through the non-compellable intervention power of the Minister. TPVs will be issued with work rights and access to Medicare and other benefits. Work rights may be restricted to specific geographic regions. Benefits paid to TPV holders unable to find work will be set at the discretion of government, will not exceed equivalent Centrelink payments and will be subject to a mandatory mutual obligation scheme like “Work for the Dole”. TPV holders will not be entitled automatically to access settlement services or support, with the Minister given discretion, by exception, to grant access to this support. While on a TPV, refugees will be

³ The Liberal Party's website is <http://www.liberal.org.au/> This summary is drawn from *The Coalition's Operation Sovereign Borders Policy* – <http://www.tonyabbott.com.au/LinkClick.aspx?fileticket=XIIJzrhE0BA%3d&tabid=86>, *The Coalition's Policy to Clear Labor's 30,000 Border Failure Backlog* – <http://paweb-static.s3.amazonaws.com/Policies/ClearLabor30000BorderFailureBacklog.pdf>, *The Coalition's Policy for a Regional Deterrence Framework to Combat People Smuggling* – <http://bit.ly/179P9cv> and *The Coalition's Policy to Withdraw Taxpayer Funded Assistance to Illegal Boat Arrivals* – http://www.scottmorrison.com.au/media/files/Coalition_2013_Election_Policy_Legal_Funding_for_Illegal_Entrants.501.pdf

denied permanent residency, the right to apply for citizenship or access to family reunion under any program. If a TPV holder chooses to leave Australia, he or she will be barred from returning. For asylum seekers living in the community while their refugee status is being determined, accommodation guidelines, community and police consultation procedures and “behavioural codes” will be introduced. The Coalition’s intention is that its TPV policy will apply specifically to asylum seekers who have arrived by boat and are already in Australia at the time the policy is implemented. Christmas Island will be used as a detention and removal centre for asylum seekers currently in Australia. Any future asylum seekers who manage to reach Australian territory by boat will be sent to offshore processing arrangements in Nauru and Manus Island.

Refugee status determination

For asylum seekers deemed to have deliberately discarded identity documentation, under a Coalition Government there will be a presumption against awarding refugee status. An audit of refugee assessment will be undertaken with a view to removing appeals to the Refugee Review Tribunal. A four-step process, modelled on a system in place in the United Kingdom, will “triage” asylum claims, with a view to making assessments within 14 days. Successful claims may lead to the granting of a TPV with an immediate review initiated for any rejected claim. The review will be conducted by another case officer within the Department of Immigration and Citizenship, the asylum seeker being given the opportunity to present the claim again supported by an information kit in the relevant language. Unsuccessful reviews will result in the rapid removal of asylum seekers to their country of origin or voluntary return to a third country where they have a permit for entry. The Coalition will also establish specialist Country Based Assessment Cells within the Department of Immigration and Citizenship with country information used for assessment purposes regularly updated and vetted.

Withdrawal of government-funded legal advice

The Immigration Advice and Application Assistance Scheme (IAAAS) provides free migration advice to vulnerable and disadvantaged visa applicants, including asylum seekers. Under a Coalition government, asylum seekers who arrive in Australia by boat will no longer be eligible for assistance under the IAAAS. Asylum seekers will not be barred from accessing legal advice, but they will not receive government-funded support to do so. Instead, asylum seekers will be provided with clear instructions in multiple languages setting out the application and assessment process. Interpreters and DIAC staff, separate from those making the assessments, will be available to answer any questions about the process. DIAC will also facilitate access to private and/or pro bono immigration advice, with all costs to be met by the providers of these services, including costs incurred by DIAC.

Refugee and Humanitarian Program

A Coalition Government will reduce the Refugee and Humanitarian Program from 20,000 places to 13,750 places, with no places allocated to people who travel by boat to claim asylum.

Regional cooperation

If elected, the Coalition will give priority to deterrence measures, emphasising bilateral support for maritime surveillance and response capabilities for search and rescue including in-country reception facilities. Australia will support and be involved in joint enforcement, disruption, intelligence gathering and surveillance on people-smuggling in Indonesia, Sri Lanka and Malaysia, and encourage tougher laws to combat people-smuggling. Operation Sovereign Borders will support regional efforts to facilitate the safe return of asylum seekers with independent observers monitoring the safety and treatment of people returned to their origin. The Coalition will assist countries of first asylum in the Asia-Pacific region to address the humanitarian and resettlement needs of asylum seekers “generated from within our region”. Under a Regional Deterrence Framework, a Coalition Government will integrate external disruption, detection and interception of boats and detention of asylum seekers in third-country locations where their refugee status would be determined. Australia will also disrupt people-smuggling in Indonesia through awareness campaigns in 100 local villages, a capped scheme to buy decrepit and unsafe boats from their owners and support for wardens to provide intelligence to authorities. Enhanced technology to identify people departing source countries or arriving in transit countries, improved biometric data on asylum seekers and document examination equipment will be developed. Australia will increase air surveillance and bolster Indonesia’s search and rescue capacity by providing additional vessels, support, maintenance and crew training.

Refugee and Humanitarian Program

The Greens would increase the humanitarian intake to 30,000 places, which would include an emergency intake of 10,000 UNHCR-recognised refugees from the Asia-Pacific region. At least 3,800 refugees would be resettled from Indonesia. Emergency funding of \$70 million a year would be allocated to safe assessment centres in Indonesia to provide shelter and welfare services to refugees while they wait for assessment and resettlement, and to increase capacity of UNHCR in Indonesia and Malaysia. Some 4000 additional family reunion places would be created to stop women and children boarding boats.

Regional refugee protection

An Australian Ambassador for Refugee Protection would be appointed to drive cooperation on regional refugee protection, modelled on arrangements in place to respond to the movement of refugees fleeing Vietnam in the 1970s and 1980s. The Australian Greens would also work quickly to open up safer resettlement pathways from countries like Malaysia and Pakistan.

Asylum seekers

All asylum seekers would be processed onshore and be permitted to stay in the community on bridging visas with the right to work while their refugee status is being determined. People unable to work would be provided with a fair rate of assistance. On arrival in Australia, asylum seekers would spend a maximum of 30 days in detention while health, security and identity checks have been completed. Any further detention would be subject to judicial review. Bans on people from refugee-producing countries arriving by air to seek asylum would be lifted. Excision policy would be overturned to restore Australia's migration zone to match land and sea territory.

Detention policy

The Greens would close the worst detention centres on the Australian mainland and on Christmas Island as well as centres in Nauru and PNG but leave metropolitan centres open or on stand-by. They would also introduce legislation for legal review of detention and community detention options for adults and children being held in indefinite detention because of adverse ASIO security assessments.

Children

No children would be detained either in onshore or offshore detention facilities. Guardianship arrangements for children would be transferred from the Minister for Immigration to an Independent Guardian for Unaccompanied Children.

Refugee health

With detention centres in operation in Nauru and PNG, the Australian Greens would establish an independent panel of medical and mental health experts to provide public oversight and monitoring of people sent to offshore locations. The Independent Health Advisory Panel would be drawn from experts nominated by Australia's peak medical, psychiatric and psychological bodies and have access to all offshore facilities and personnel. The Panel would be independent of the Minister for Immigration and report directly to the Parliament every six months on health conditions inside detention facilities, any deficiencies in care and make recommendations for improving medical and mental health care. The public would have access to the report at the same time as the Minister for Immigration and the Government's response released to the public. An initial \$2 million would be allocated over the forward estimates to resource the Panel's work.

The Refugee Council of Australia has also produced a summary of the refugee policy platforms of the other parties and Independents contesting Senate elections. This can be viewed at <http://www.refugeecouncil.org.au/r/rpt/2013senate.pdf>

⁴ The Greens' website is <http://www.greens.org.au/> This summary has been drawn from the following policy statements from the Greens: *The Right Way Forward on Refugees* https://greens.org.au/sites/greens.org.au/files/Safer_Pathways.pdf, *Protecting Refugee Health* <http://greens.org.au/protecting-refugee-health> and *Caring for Refugees in our Community* http://greens.org.au/sites/greens.org.au/files/Ending_Cruel_Refugee_Detention.pdf