



Refugee Council
of Australia

WHAT HAPPENS NOW THAT AUSTRALIA HAS ‘STOPPED THE BOATS’?

Paul Power, CEO, Refugee Council of Australia

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It is a great privilege for me to be invited to speak tonight. I would like to express my thanks to the Institute of Advanced Studies, the Centre for Social Change, the Not In Our Name alliance and the University Club of Western Australia for extending this opportunity to me and thank everyone present for supporting this event. I acknowledge the traditional custodians of the land, the Noongar people, and pay my respects to their elders, past and present. A recurring theme of Australian history over the past two centuries has been that the first peoples and the last to arrive have had to struggle the hardest for justice, fair treatment and acknowledgement of their contribution to the nation.

I'd also like to thank those of you present who have been supporting the Refugee Council of Australia in its work as a strong and independent voice for humane and common sense policies for refugees. Three months ago, the Immigration Minister decided to remove the core funding provided to our organisation by the Government, despite the fact that this funding had been allowed for this financial year and for the next three years in the 2014 Federal Budget. We have no intention of going away or being silenced. I have taken the liberty of distributing information about the Refugee Council, as well as summaries of recent changes in policy and national and international statistics which I hope you find useful.¹

Excluding the desperate

The summary of recent changes in policy highlights some, but sadly not all, of the changes which have stripped away basic rights and decent treatment of people seeking asylum in Australia. It is important to acknowledge that the current policies are the collective efforts of the Abbott, Rudd, Gillard and Howard governments, with the original deterrence policy, mandatory detention for boat arrivals, being introduced by the Keating Government in 1992. However, there can be little doubt that the Abbott Government has eclipsed all of its predecessors in the harshness of its policies. The Coalition outlined its plans in some detail in four policy documents released prior to the 2013 election and what has been delivered has been every bit as harsh as what was foreshadowed a year ago.

The end result of many years of political handiwork is that we have a set of policies which are designed to make it as difficult as possible for anyone trying to get to Australia to seek asylum.

Arriving by plane on a temporary visa is almost impossible for people with the strongest claims for refugee protection. If the Department of Immigration and Border Protection suspects that a person applying for a visitor or other temporary visa might not return home because they may be experiencing persecution, it will not issue that person a visa. Among the criteria used to decide on a visitor visa is “civil or economic disruption in the applicant’s home country”. The onus is on the

¹ The summaries of policy changes and national and international statistics have been attached to this document as appendices.

applicant to demonstrate an intention to make a genuine visit not on the Department to demonstrate grounds for refusing a visa.

Politicians tell us all the time that the proper process is for refugees to apply for resettlement through an offshore refugee or humanitarian visa. Looking at the Government's statistics, one can see that relatively few of the people in desperate need of resettlement apply to Australia each year and, of those who do, very few succeed. In the five years to June last year, there was an average of 48,668 offshore refugee and humanitarian visa applications per year. That's 0.3% of the 15 million refugees living in developing countries. Of those few who did apply for resettlement to Australia, more than 80% had their applications rejected. Those who have the greatest chance of success are the lucky few who are referred to Australia by UNHCR. For Special Humanitarian visa applicants, the rejection rate over the past five years has been 92% and for In-Country Special Humanitarian visa applicants 97%.

I'm sure that many people in this room are heartily sick of hearing references by politicians in major parties to asylum seekers queue jumping – when the undeniable fact is that there is no resettlement queue. Refugee resettlement doesn't operate on a first come first served basis and few refugees get anywhere near a resettlement outcome. Resettlement to any country in the world is available well under 1% of the world's refugees in any given year. Just 98,426 of the world's 16.7 million refugees were resettled last year. If, in fact, the world's refugees were all in a queue waiting for resettlement, at that rate those at the back of the queue would have to wait 170 years. For Afghan, Iraqi and Iranian refugees who fled to Syria and now find themselves stuck in Syria's civil war, the theoretical queue is 25 years, if you use resettlement numbers over the past five years as a guide. If you are unlucky enough to be an Afghan in Pakistan, the current queue would be 3972 years.

History tells us that people fleeing persecution or intolerable situations in countries of asylum cannot rely on resettlement to save them. In the 1930s, many Jews managed to escape Nazi Germany but many more were not able to, because the nations involved in Jewish refugee resettlement schemes applied strict quotas. A small insight into the sense of desperation experienced by German Jews trying to escape during that time can be found in William Russell's account of his time as a young diplomat at the US Embassy in Berlin. In his book "Berlin Embassy", he described the following event in August 1939 in the Embassy's Immigration section:

A small woman, dressed in black and wearing thick spectacles, moved forward to the desk. "My husband is in the concentration camp at Dachau," she said simply in a low voice. "Tell me what I can do to help get him out." "What's his registration number?" Joe asked. "Eight thousand, four hundred and ten, Polish quota," the woman said. "I'm sorry," Joe answered sympathetically. "There are thousands of applicants registered before your husband. He has at least eight years to wait." The expression on the woman's face showed that she did not believe Joe's words. "But you will just have to do something," she insisted. "He will die there. If the war comes, they will never let him out of that place." Joe shook his head slowly. The little woman began to cry as she gathered the papers she had spread out on the desk. She fumbled with the papers and when she had them all in her pocket-book she walked away. It was like that all day, every day, in our Embassy.

Arriving unannounced

It's not surprising then that many refugees who see no hope of returning safely to their country of origin and cannot find sustainable safety in countries of first asylum conclude that they have to take matters into their own hands. Some have seen entering Australia by boat as their best hope for sustainable protection. On reflection, it is perhaps surprising that, given the vast unmet need for genuine protection for refugees, historically so few asylum seekers have tried to make that journey. In recent decades, the first boatload of asylum seekers to make it to Australia's shores reached Darwin Airport on 26 April 1976. The five Vietnamese on that boat were the first of 69,602 boat arrivals. In nearly 40 years, the number of asylum seekers who have arrived by boat is less than the number of migrants who get permanent visas in Australia in four months.

I have been looking closely at refugee recognition rates for asylum seekers who arrived by boat and it appears that since 1976 around 29,000 of the 36,500 asylum seekers whose status has

been resolved have been given permanent or temporary protection – that’s around 79%. Currently on Nauru and Manus Island, the collective recognition rate is 69%, which is similar to the 70% recognition rate under Pacific Solution mark I. The decisions made to date by the Australian Government and its various contractors at all points over the past 40 years contradict the claim made regularly by politicians that most of the boat arrivals are just economic migrants.

Successive Australian Governments and Oppositions have not liked the idea of asylum seekers arriving unannounced. The first known reference to queue jumpers came from the then Labor Shadow Minister for Immigration, Dr Moss Cass in 1978. The Fraser Government’s strong preference was for Indochinese refugees not to seek refuge in Australia, so it put its focus on supporting international efforts to receive and house refugees at various points in East and South-East Asia with Australia’s role being to assist through resettlement. As a result, Australia received just 2069 asylum seekers by boat between 1976 and 1988 and resettled more than 150,000 Indochinese refugees. The policy of supporting efforts to provide better protection closer to the country of origin proved to be an enlightened one – and one which should be central to Australia’s response today.

Viewing Australian policy in a global context

Part of my role is to represent the Australian NGO sector in international meetings with NGO counterparts and UNHCR representatives from around the world. As a result, I am regularly asked about Australian policy and the rationale behind it. People looking at refugee issues on a global level cannot understand why the flow of asylum seekers is such a prominent issue in Australia. It is not justifiable in terms of the number of asylum seekers Australia receives relative to other countries – and it is certainly not justifiable in terms of the numbers of asylum seekers received relative to Australia’s annual migration program. At UNHCR’s recent annual consultations with NGOs in Geneva, the High Commissioner for Refugees, Antonio Guterres, spoke about Australia’s strange obsession with boats. Praising Australia for “the most successful resettlement program I can imagine” and noting Australia’s large migration program, Mr Guterres described Australia’s response to boat arrivals as “a kind of collective sociological and psychological question”. Speaking of Australians collectively, he said: “If you come to Australia in a different way, it’s fine but if you come in a boat it is like something strange happens to their minds.”

The recently released UNHCR statistics for 2013 are quite telling – more than 50 million displaced by persecution and conflict for the first time since World War II, 33.3 million internally displaced, 16.7 million refugees and 1.2 million asylum seekers. The 16.7 million refugees include 5 million Palestinians recognised under the mandate of the UN Relief and Works Agency and 11.7 million refugees recognised under the mandate of UNHCR. Of the 11.7 million UNHCR refugees, 86% are in developing nations. The share of refugees in the world’s wealthiest nations has declined from 30% to 14% in a decade. Lebanon now has more than 1.1 million Syrian refugees – in a small country with a total resident population of 4.4 million. That, in per capita terms, would be equivalent to Australia hosting 5.8 million refugees. Can you imagine how the Australian population would respond to that?

And despite all of this, we have to put up with the utter nonsense of our politicians, both Coalition and Labor, claiming that Australia is more generous to refugees than any other country. Their argument is that Australia resettles more refugees per capita than anyone else. That is true. Last year Australia did resettle 0.1% of the 11.7 million refugees under UNHCR’s mandate, which, I suppose, is a significant share of the 0.8% resettled around the world in total last year. Yes, we are good at assisting our share of the 1% who get resettled. But there is the small matter of the 99% of refugees who won’t get resettled this year.

The often fruitless search for a durable solution

Because dealing with the needs of the 99% is a little bit too challenging, Australia’s political masters have constructed a neat little view of the way in which refugees should be protected. Unfortunately, it is entirely mythical. According to this myth, people facing persecution in their home country pick up their passports (which they have, of course), cross the border in safety, are welcomed by authorities in their country of asylum, are referred to UNHCR, placed in a refugee camp where all their financial, health and education needs are met and wait their turn in an orderly

manner for resettlement to Australia or elsewhere. It would be wonderful if this myth were true but the realities for most refugees are entirely different. Many people fleeing persecution don't have official documents or are forced to obtain false documents to protect themselves. Escaping the home country is perilous and often involves bribery or using smuggling networks. The official reaction in a country of first asylum is often hostile or refugees can have their entry barred. If they do make it, finding UNHCR or getting access to a refugee status determination process can be unachievable. Most of the world's refugees, currently more than 70%, do not have access to refugee camps but are forced to live in grinding poverty in urban or rural slums, often with no legal status or right to work. Of the minority who live in refugee camps, getting enough food to survive is often a struggle and there is limited access to health or education. Resettlement is available only to a fortunate few, most often based on what is politically achievable, not on absolute need.

UNHCR speaks of three durable solutions available to refugees to resolve their status. The first is safe return to the country of origin after the time of persecution or conflict has passed. Over the years, this has been the most readily available solution but, in the current circumstances, numbers of refugees repatriating have been dropping for some years because too many of the conflicts which produce refugees remain unresolved. The second durable solution is integration into the country of asylum. While many countries are prepared to allow refugees to remain for some time (usually with great reluctance and some resistance), few countries are prepared to give refugees any form of long-term residency or basic rights. The third durable solution is resettlement which, as I have mentioned, benefits fewer than 1% of the world's refugees each year.

As a result, the number of refugees without a durable solution continues to grow, the latest estimate being that 6.4 million of the 11.7 million UNHCR refugees are in what the UN describes as "protracted refugee situations" where the average length of displacement is 20 years. Refugees make up less than 0.2% of the world's population – and yet the international community gives so little priority to their needs that most remain for many years with no durable solution in sight.

Every day I hear about or, through email or Facebook, hear directly from refugees for whom no government seems prepared to offer a solution:

- The elderly refugee couple locked in an Asian detention centre for many months after fleeing the civil war in Syria.
- The young Afghan refugee in Malaysia, left with no income and no means of support, who worked 17 hours a day in a restaurant for a month, only to be denied his first monthly pay and sacked because his employer knew he had no legal right to work and no right to insist on being paid.
- The refugee family in Australia desperately searching for a brother who fled persecution in Eritrea but hasn't been heard of since he boarded a boat in North Africa headed for Italy.
- The young Ethiopian refugee, desperately appealing for resettlement because he faces a life with no work, no education and no future in Yemen.

I could give example after example, all of which demonstrate that refugees need not only protection from the persecution they have fled but also the opportunity to build a sustainable life in a place where they can be physically safe and enjoy longer term security. That is what the movement of refugees from one country to another is almost always about – the search for sustainable protection. Even when it seems inexplicable that a refugee has paid a small fortune and put themselves at great risk to travel by boat from an apparently safe country of asylum to Australia, often the unsustainability of their protection is at behind their decision to move on.

Australian politicians might want to neatly divide boat arrivals between "genuine refugees" (an appalling term) and those who can be dismissed as "economic migrants". However, the International Organization for Migration and UNHCR are increasingly referring to flows of refugees and the growing phenomenon of "desperation migration", which can be seen clearly in the mixed movements of people from many countries across the Mediterranean to Europe or across the Gulf of Aden to Yemen.

How sustainable are Australia's current policies?

The Abbott Government is claiming victory for largely stopping the boats through its brutal policy of physically forcing boats back into Indonesia and Sri Lanka while the Labor Opposition says the

turning point was really Kevin Rudd's announcement in July last year that all asylum seekers would be sent permanently away from Australia to Papua New Guinea or Nauru as part of the badly misnamed "Regional Resettlement Arrangement".

These policies might be achieving their short-term political ends but they are presenting Australia to the world in a very bad light. We are increasingly being seen as a nation which is deeply hypocritical on matters of human rights, a very wealthy and spoilt nation which wants to share in the benefits of global trade but much prefers to push responsibility for humanitarian crises back on its much poorer neighbours. If willing partners can't be found, then Australia finds ways of paying others to do its dirty work, starting with the weakest and poorest.

But how sustainable will these policies prove to be? At what point will PNG, Nauru or Cambodia feel they are not getting enough support for housing the refugees Australia doesn't want? If the refugees who are forced to remain in those countries are given the resources they need to build a sustainable life – which I certainly hope they will be – how will that be received by nationals of those countries who are living in absolute poverty?

And, more to the point, when will Indonesia decide that it has just had enough of Australia forcibly pushing back asylum seekers? These asylum seekers are not Indonesian citizens and no more Indonesia's responsibility than Australia's. The view from Indonesia is of a very wealthy, largely unpopulated country pushing unwanted people back to a much poorer, overpopulated neighbour. At what point is this approach going to manifest itself in serious political hostility towards Australia?

I can't see the international pressures which result in refugee movements and desperation migration decreasing in years to come – at least not without a serious change of direction in international responses. The number of countries wracked by unrest and terrorist movements is increasing and the international will to respond seems to be decreasing. Increasing global communication means that those caught up in these crises are more aware than ever before of the safety and security enjoyed by others elsewhere and, when faced with circumstances in which family members are at great risk, will be more inclined than in the past to seek longer term security in more distant places.

The previous Government came up with rhetoric about building a regional cooperation framework and supported discussion about such a framework as part of the Bali Process. However, little was achieved because, in my observation, the Australian Government didn't see it as a top priority. While the Labor government seemed prepared to see refugees better protected in Asia, all it really wanted was to find the right deterrents to solve the political problem caused by the regular arrival of asylum seeker boats.

The Abbott Government has clearly decided that it is not interested in a regional cooperation framework but is promoting what it refers to as a regional deterrence framework. Building on measures undertaken by Labor and introducing new measures of its own, the Government is putting hundreds of millions of dollars each year into deterrence activities in Asia including: Australian Federal Police activities to disrupt and deter people smuggling initiatives within Asia; government-to-government cooperation to improve standards of border control; an international network of Australian compliance officers and airport liaison offices; Australian Customs and Border Protection Service officials being stationed in Indonesia, Malaysia and Sri Lanka; the development of the Disruption and Deterrence Task Group and the Law Enforcement Joint Management Group on People Smuggling; and the creation of a Special Envoy for Operation Sovereign Borders to work closely with the Ambassador for People Smuggling Issues.

So, where do we go from here? As concerned Australians, we have to become even more active in ensuring that our political representatives hear from us and hear constructive alternative policies. I'd like to put forward suggestions about how Australia can approach regional cooperation on refugee protection, what needs to change in Australian policy and practical options that individuals and organisations can consider.

Could Australia be a positive influence in the Asia-Pacific region?

If Australia seriously wants a less chaotic and less dangerous process and wants to protect lives, not only at sea off the Australian coast but also at other points along the path from persecution,

then Australia must want to see refugees better protected in various parts of Asia. But how do we influence the protection of refugees in Asia where our record in the treatment of people who seek refuge here is so appalling? The answer is that our potential influence is weaker now than it has ever been and that we as Australians will need to work on improving our policies before we will have much credibility. I'll come to that in a moment but, even while we are working on improvements, we can have some positive influence.

When looking at how governments in the region can improve the protection of refugees, some people look to international dialogue which builds towards a common agreement across the region, preferably with each country signing on to the Refugee Convention. I really can't see that happening in the foreseeable future. The better path, I believe, is to work to achieve incremental improvements in the treatment of asylum seekers and refugees country by country. By gradually improving conditions and building trust, we can lay the groundwork for a regional agreement in years to come.

I am proud to be a member of the Steering Committee of the Asia Pacific Refugee Rights Network, which brings together more than 100 NGOs involved in refugee issues from Iran to New Zealand and Japan. This network keeps me in direct contact with civil society partners across the region who are working for change within their own countries. Change in policy in Indonesia or Thailand or Bangladesh is not going to come through pressure from Australia but through advocacy by citizens and organisations within each of those countries. If we want to see change happen across the region, we need to be well informed about what is happening in each of the key countries, understand how we can support those advocating for change and understand what the Australian Government can do to support, rather than hinder, change.

Despite the current mess of Australian policy, our country does have some positive levers of influence which we could use if we so chose. For some years, Australia has played a constructive role in resettlement of refugees from South-East Asia and South Asia, including Thailand, Malaysia, Indonesia, Nepal and India. One of the ideas often discussed in UNHCR's annual dialogue on resettlement, in which I have participated for the past seven years, is that, given that resettlement is available to so few refugees, it should, where possible, be used strategically, to unlock protection solutions for refugees who will never be resettled. It is clear that the main countries of resettlement, Australia, Canada and the United States, have done too little to positively encourage countries of first asylum to respond to this very practical sharing of responsibility by improving conditions for refugees who remain within their borders.

Australia can also use its overseas aid to support programs which improve the protection of refugees. Unfortunately, the Abbott Government has recently scrapped the Immigration Department's Displaced Persons Program which aimed to do just that. That program could be reinstated and expanded or the focus of that program could be taken up much more strongly and intentionally through the aid program managed by the Department of Foreign Affairs.

The most effective way of addressing refugee situations, of course, is to work for improvements in human rights conditions in countries of origin. This is difficult work and the opportunities for positive influence can be quite limited. However, every opportunity should be taken. How, for instance, is Australia's improving relationship with the government of Myanmar (or Burma) being used to address the appalling violence in Rakhine state which is resulting in the displacement of tens of thousands of Rohingya people each year? Seeing that Australia's belief in the government of Sri Lanka's treatment of its Tamil minority is not shared by Canada, USA or the UK, would Australia consider working with those countries to push for better monitoring of what is happening?

Australia and Indonesia have led the Bali Process for the past 12 years and have collectively at times promoted some discussion about resolving refugee issues. This can and must be ramped up, with options explored for a parallel dialogue involving civil society. Keeping the dialogue going increases the possibilities of useful cooperation in the medium term.

Improving refugee protection in Asia

As I mentioned earlier, we at the Refugee Council of Australia believe that change to the circumstances of refugees is most likely to happen bit by bit, country by country, rather than through a fully developed regional agreement. We have discussed this matter a lot with NGOs and

refugees in South-East Asia and have concluded that the most useful change must focus on the changes which refugees themselves most want to see. If we don't want refugees to undertake expensive and risky onward journeys, then we have to understand what they need to make life more sustainable. And the needs they nominate are basic and practical – access to a refugee status determination process, legal permission to remain where they are, freedom from detention, adequate food and shelter, the legal right to work, freedom from violence and access to justice when they need it, access to physical and mental health care and access to education. There's no rocket science involved.

Based on this feedback, we have suggested 10 steps which should be included in any process of change in the region. We see this happening incrementally, country by country, not necessarily in any particular order, as opportunities arise.

The first step is removing barriers to existing refugee determination processes, to address the situation in which many asylum seekers in countries such as Bangladesh, Thailand, Malaysia and Indonesia are denied access to either the UNHCR or domestic asylum systems or have to wait years for initial interviews.

Another step would be ensuring that NGOs are able to provide vital services to refugees. The support given to refugees and asylum seekers by under-resourced NGO programs – in emergency assistance, health care, education and legal representation – is often vital to stabilising their situation in countries of asylum. Host governments should be encouraged to allow NGOs to conduct this work unhindered and NGOs should be provided international support to expand their work.

The following three steps are all aimed at giving refugees the basic security they need to live day to day - giving them permission to remain in the country while their status is determined and a durable solution found; providing them rapid release from detention and freedom from arrest; and granting them the right to work, enabling them to survive free from fear and exploitation.

As the domestic support for refugees and asylum seekers develops, each state should be encouraged to provide access to critical government services such as education and health care, reducing pressure on UNHCR and NGOs which often step in to provide basic services when host governments are not prepared to do so.

As the process builds, host states, UNHCR and resettlement states involved in the cooperation process would work together to assist refugees to find durable solutions – assisted voluntary repatriation (where appropriate), integration into the host country or resettlement to a third country. This regional approach would be based on a clear understanding that different countries have differing national capacities to provide long-term protection to refugees. Less would be expected of countries with limited economic opportunities such as Indonesia than of middle-income countries like Malaysia and Thailand or high-income countries such as Australia and New Zealand.

A much later step would be to encourage the development of national legislation for refugee status determination, including avenues for independent review. National systems could be based on models already developed in Asia, in countries such as the Philippines and the Republic of Korea.

With domestic legislation in place, countries could be encouraged to sign the Refugee Convention and Protocol. This would be seen as a much smaller step if taken after legislation and other basic protections are in place.

As each nation develops its domestic asylum system, work could begin on building greater consistency in asylum processes across the region. The goal would be to work towards a situation where an asylum seeker would not be significantly advantaged or disadvantaged by seeking asylum within a particular country in the region.

Cleaning up our act

We must remember that Australia, more than any other country in the region, has the most to gain through seeing refugees better protected across Asia. And to achieve what is clearly in our national interest, we have little option, I believe, but to model the changes needed across the region.

Australia needs to review its treatment of asylum seekers, including those we have sent to PNG and Nauru to ensure that they have the following:

1. Access to refugee status determination, with access to information, interpretation, funded legal advice and review
2. Freedom from detention, using existing detention alternatives in all but the most exceptional of circumstances and develop detention alternatives in Nauru and PNG
3. Giving all asylum seekers the right to work – even if work is hard to find, not robbing them of the hope associated with looking for work.
4. Ensuring all asylum seekers have access to basic services, including adequate shelter, physical and mental health care and education.
5. Access to durable solutions – providing prompt decisions and outcomes and living conditions which are sustainable for recognised refugees.

A sixth priority is to explore alternative entry options for people at risk. If Australia's preference is for people to come in an orderly fashion in ways in which the government maintains control, then our responses need to take account of the most pressing needs of people seeking protection in the region. Apart for a reversal of the recent cut in the Refugee and Humanitarian Program, the Abbott Government needs to explore expanded family reunion options (such as the one recommended by the Expert Panel on Asylum Seekers but recently removed by the Government). I attended a recent roundtable in Canberra at which delegates also spoke of creating an orderly departure program for Tamils waiting to leave Sri Lanka, similar to the program organised in the 1980s and 1990s for people to leave Vietnam safely. Another option raised at that roundtable – also worthy of further investigation – was to look at how people at some risk could participate in sponsored temporary work options.

Options for concerned individuals

It is fine to have a vision for what could be but we cannot ignore what is happening around us now. Years ago, I would never have imagined that Australia would develop such a harsh and heartless set of responses to people fleeing persecution. While it is often hard to remain optimistic, we can be sure that nothing will change if those with a strong desire to see asylum seekers treated humanely give up hope and decide not to act. I am often asked: "What can I as an ordinary citizen do to respond to what is happening at the moment?" Here are six quick ideas for you to consider:

1. Stay informed and share information with friends who share your concerns. There is a lot of good information around about what is happening and what the alternatives are. One good way to stay informed is to get your name added to RCOA's free monthly email bulletin list, which includes updates on the latest news, statements, reports and coming events. To keep up with information day to day, follow us on Facebook or Twitter, as we share useful articles and reports as they are released.
2. Speak up – Many people are cynical about the political process and believe that their political representatives won't listen. But it is really important to let your representatives know what you are thinking and also for them to hear about constructive alternatives from their electors. In 2001, as Australian asylum policy was rapidly getting worse, no one knew that significant change would come three years later from within the government's own ranks. Don't give up and don't underestimate the capacity for change coming from pressure in the Senate. Write not only to your local MP but also to the 12 Senators who represent you and your state. They include Coalition, Labor, Greens and crossbench Senators. We at RCOA are just about to start a new campaign on the theme *Write to Be Heard*, which will provide good background information about issues and constructive alternatives. And, if you are involved with a group which supports asylum seekers and refugees, do what you can to ensure that your political representatives have the chance to meet some of the people affected by their policies. Don't assume that every politician understands the issues or knows about the human impacts.

3. Volunteer your services to an organisation supporting asylum seekers and refugees. I'm sure that many of you are involved already but, if not, seek out information about the organisations within your city which provide support to asylum seekers and refugees and get involved.
4. Create opportunities for former refugees to speak. This year, we at RCOA have been running a pilot program to take speakers of refugee background to schools to speak about their experiences. It is proving to be so effective because the focus of discussion shifts from the political arguments about asylum policy to the human experience of fleeing persecution and beginning again in a new country. This is exactly what we need to do to shift public perceptions of refugees – give people a chance to meet and hear from people who have been through that experience. So I'd encourage you to talk to refugee support agencies about inviting a refugee speaker to an organisation that you are associated. And, if anyone would like to talk us about helping us to expand our schools program to Western Australia, we'd love to talk to you.
5. Promote local initiatives to welcome refugees. There are quite a few good initiatives around but two I'd like to draw to your attention are Welcome to Australia and RCOA's Refugee Welcome Zone initiative. Over the past 12 years, 100 local councils around Australia have declared themselves Refugee Welcome Zones but only three of them are in WA – the cities of Fremantle, Subiaco and Vincent. So look at the work of Welcome to Australia² and see how you can support it and encourage your local councillor to push for your council to become a Refugee Welcome Zone.³
6. Donate and support fundraising efforts of vital services. Many organisations working with asylum seekers have had significant cuts in government funding or are trying to respond to needs for which no funded services are available. Today I went to see CASE for Refugees, WA's specialist refugee community legal centre, and it is clear that this organisation is facing great difficulties as a result of funding cuts and desperately needs community support. I know that other unfunded or poorly funded organisations do too, including CARAD which has been doing great work to support asylum seekers here in Perth for a long time.

The announcements of the past week by the Immigration Minister Scott Morrison about Iraqi resettlement and the release of children from detention hint that the Government may be under growing pressure to present its policies in a more humanitarian light. We should be encouraged by this, to keep up the pressure and do whatever we can to make a difference.

² <http://www.welcometoaustralia.org.au/>

³ For information, see <http://www.refugeecouncil.org.au/g/rwz.php>



RECENT CHANGES IN AUSTRALIAN REFUGEE POLICY

August 2014

Recent years have seen numerous changes to Australia's refugee and asylum seeker policies, largely as a political response to a significant increase in the number of asylum seekers arriving in Australia by boat (51,637 arrivals in the five years to December 2013)⁴ and a consequent increase in deaths at sea between Indonesia and Australia (at least 862 deaths recorded over the same period)⁵. Both of Australia's major political parties have attempted to address this issue through deterrence-based policies which block access to protection in Australia and impose penalties on people who arrive by boat.

Refugee and Humanitarian Program

- During the 2012-13 financial year⁶, the size of Australia's Refugee and Humanitarian program was increased from 13,750 to 20,000 places, divided between offshore resettlement and onshore protection. This was the largest increase to the program in 30 years and resulted in an 87% rise in the number of offshore resettlement visas granted. With the change of government in September 2013, the size of the Refugee and Humanitarian Program was reduced back to 13,750 places, with the majority of these dedicated to offshore resettlement.

Detention and community alternatives

- **Indefinite mandatory detention:** Asylum seekers who arrive by boat without authorisation are continue to be subject to indefinite mandatory immigration detention. As at 31 July 2014, 3,702 people were detained in Australian immigration detention facilities, 712 of whom children. The average length of detention has been rising steadily of the past year and currently stands at 350 days. Another 2,273 people, 183 of them children, were detained by Australia in detention centres in Nauru and Papua New Guinea.
- **Use of Bridging Visas:** In October 2011, the Government began to release large numbers of asylum seekers from closed immigration detention into alternative community-based arrangements. Most have been released on to short-term Bridging Visas (24,500 people as at 30 June 2014). These visas allow them to live freely in the community pending resolution of their claims. They have access to Medicare and receive a basic living allowance paid at 89% of the Centrelink Special Benefit (which is usually paid at the same rate as the Newstart allowance).
- **Denial of work rights:** Asylum seekers released on Bridging Visas who arrived by boat before 13 August 2012 are eligible to work but those who arrived by boat after this date (who make up the majority of asylum seekers currently living in the community) are not. Many of these asylum seekers face destitution and marginalisation: they often struggle to afford basics such as adequate food, housing and medication and have few opportunities to engage with the broader community due to their limited incomes, lack of English skills and inability to work.

⁴ For a full list of refugee-related statistics for Australia see http://www.refugeecouncil.org.au/r/sub/2014-15_Stats.pdf

⁵ Analysis of political claims about numbers of deaths at sea can be found at <http://theconversation.com/factcheck-have-more-than-1000-asylum-seekers-died-at-sea-under-labor-16221>

⁶ The year to 30 June 2013.

- **Access to case support:** Some Bridging Visa holders who are vulnerable or have complex needs are eligible for more intensive casework support but most receive little assistance beyond income support. Those who are particularly vulnerable (such as unaccompanied minors, families and people with significant mental health issues) may be released into community detention, a form of community release which is more restrictive but also provides more intensive support than release on to a Bridging Visa.
- **Refugees with adverse security assessments:** There are currently over 40 refugees (including children) who remain in indefinite closed detention due to having received adverse security assessments from the Australian Security and Intelligence Organisation (ASIO). Nearly all have now been detained for over four years and appear to have no prospect of release in the foreseeable future. In July 2013, the UN Human Rights Committee found that the indefinite detention of these refugees breached the International Covenant on Civil and Political Rights.⁷

Refugee Status Determination (RSD) and legal advice

- **Excision policy:** Under Australian law, a person who arrives by boat without authorisation is barred from applying for any sort of visa, including a Protection Visa, unless the Minister for Immigration and Citizenship personally intervenes to "lift the bar". Known as excision, this policy previously applied only to specific outlying territories of Australia (such as Christmas Island) but has recently been extended to the whole of Australia. As a result, asylum seekers who arrive anywhere in Australia by boat cannot apply for a visa except at the discretion of the Minister.
- **Delays in RSD:** Since the Federal election in September 2013, RSD has effectively been suspended for asylum seekers who arrived in Australia by boat. Many asylum seekers living in the community on Bridging Visas have been waiting for well over a year for the opportunity to lodge a claim.
- **Plans for a 'fast track' process:** The Government has announced its intention to introduce a new RSD process for asylum seekers who arrived by boat, modelled on the UK's fast-track process. Claims will be "triaged" with a view to making assessments within 14 days and access to independent merits review will be withdrawn, with reviews of primary decisions instead being conducted by officials within the Department of Immigration. For asylum seekers deemed to have deliberately discarded identity documentation, there will be a presumption against awarding refugee status.
- **Removal of funded legal advice:** Asylum seekers who arrive without valid visas are no longer eligible for free government-funded legal advice. Asylum seekers who do arrive with valid visas are eligible for free legal advice at the primary stage of decision-making but no longer at the merits review stage.
- **'Enhanced screening' of Sri Lankan applicants:** Since October 2012, asylum seekers arriving by boat from Sri Lanka have been subject to "enhanced screening". Under this process, an asylum seeker is interviewed by two officers from the Department of Immigration about their reasons for travelling to Australia. If the asylum seeker raises concerns which suggest that they may have a valid protection claim, they are "screened in" so that their claim can be formally processed. If they do not raise any protection concerns, they are "screened out" and returned to Sri Lanka without having the opportunity to formally lodge a protection claim. The system lacks transparency and denies asylum seekers the opportunity to have their claims fairly assessed. More than 1,000 people have been "screened out" and returned to Sri Lanka since the system was introduced. In July, a group of 41 Sri Lankan asylum seekers who had attempted to enter Australia by boat were intercepted by Australian authorities and screened at sea before being returned to Sri Lanka.

Offshore processing

- **Transfers to Nauru and Papua New Guinea:** All asylum seekers who arrived in Australia by boat after 19 July 2013 are subject to offshore processing. Under this policy, asylum seekers are transferred to detention centres in Nauru and Papua New Guinea's Manus Island where their claims are processed under the laws of those countries. If they are found to be refugees, the Government intends for them to be resettled in a country other than Australia. Resettlement arrangements are currently being developed with the governments of Papua New Guinea (PNG) and Cambodia. As at 30 June 2014,

⁷ Decisions available at <http://bit.ly/1jcktl6> and <http://bit.ly/1ZLIZt>

1,169 asylum seekers (including 193 children) were being detained in Nauru and 1,189 adult men were being detained on Manus Island.

- **Delays in RSD:** Processing of claims has been incredibly slow, with the first decisions handed down in May 2014 despite the detention centres having been open since late 2012. There is concern that neither Nauru nor PNG has sufficient capacity or expertise to conduct credible RSD or provide adequate protection and support to people seeking protection. UNHCR has expressed particular concern about the shortcomings of PNG's legal framework for RSD.⁸
- **Detention centre standards:** Accommodation standards, facilities and services in the detention centres remain well below international standards. UNHCR and Amnesty International⁹ have documented the harsh nature of the conditions and noted the physical and mental health impacts of indefinite detention on the asylum seekers, who include children and unaccompanied minors.
- **Response to 2014 protest:** In February 2014, peaceful protests by asylum seekers detained in the Manus Island facility degenerated into a riot. PNG security guards and police stormed the facility and violently attacked asylum seekers, including people who had not been involved in the protests and were attempting to take shelter in their rooms. One asylum seeker was beaten to death and over 60 others were injured, some of them seriously. Several inquiries into the incident are underway¹⁰ but no one had been charged or arrested at the time of writing.

Border protection

- **Operation Sovereign Borders:** Soon after the change of government in September 2013, the Australian Government established "Operation Sovereign Borders", 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. Australian naval and customs officers were issued with orders were to turn back boats carrying asylum seekers "when it is safe to do so". The Government reveals little information about turnback operations, claiming that doing so would jeopardise their success through providing intelligence to people smugglers.
- **Use of lifeboats:** As part of turnback operations, asylum seekers have been transferred from their boats to Australian vessels and forced to board fully-enclosed and "unsinkable" lifeboats which are then cast adrift outside Indonesian territorial waters.
- **Detention at sea:** In July, 157 Sri Lankan asylum seekers who attempted to enter Australia by boat were detained on an Australian customs vessel for four weeks before being brought to the Australian mainland, then transferred to the offshore detention centre in Nauru. The Government had been considering options to return them to India (their point of departure), including through inviting Indian consular officials to meet with the asylum seekers and training some asylum seekers to operate the "unsinkable" lifeboats used in turnback operations.
- **Regional deterrence strategies:** The Australian Government is working with other governments in the region to strengthen border protection and deterrence measures so as to combat people smuggling and reduce "irregular movement". Measures have included donating patrol vessels to Malaysia and Sri Lanka, stationing Australian Customs and Border Protection officials in Indonesia, Malaysia and Sri Lanka and capacity-building initiatives.

Temporary Protection Visas (TPVs)

- **Previous policy:** TPVs were previously in place in Australia between 1999 and 2007. Granted to refugees who arrived in Australia by boat, TPVs allowed their holders to remain in Australia for three years, after which time they had to re-apply for protection. TPV holders could not sponsor family members for resettlement or travel outside Australia and had only limited access to services and

⁸ Report of UNHCR's monitoring visit to Manus Island, 23-25 October 2013, <http://bit.ly/1kqkYnl>

⁹ Report of UNHCR's monitoring visit to the Republic of Nauru, 7-9 October 2013, <http://bit.ly/1fU8h0E>; Report of UNHCR's monitoring visit to Manus Island, 23-25 October 2013, <http://bit.ly/1kqkYnl>; *This is Breaking People: Human rights violations at Australia's asylum seeker processing centre on Manus Island, PNG*, Amnesty International, <http://bit.ly/1cESlHg>

¹⁰ Including an Australian Senate inquiry; see <http://bit.ly/1oc2mK9>

support. The negative impacts of these conditions on the health, wellbeing and settlement outcomes of TPV holders have been well documented.¹¹

- **Reintroduction:** The Government has pledged to reintroduce TPVs but the requisite regulation has been blocked in the Senate. It is expected that the regulation will be reintroduced at some point in the future. If reintroduced, the conditions on TPVs will be similar to those in place previously, with the exception that TPV holders no longer have the option of applying for permanent residency once their visa expires. Instead, the Minister for Immigration may grant permanent residency by discretion once someone has held a TPV for at least five years.
- **Temporary Humanitarian Concern visas:** Following the disallowance of the regulation to reintroduce TPVs, the Government began granting Temporary Humanitarian Concern (THC) visas to some refugees who had arrived by boat. The conditions attached to THCs are similar to those attached to TPVs.

Other measures

- **Use of term 'illegal maritime arrivals':** The Australian Government has instructed government staff and contractors to refer to asylum seekers arriving by boat as “illegal maritime arrivals” (previously “irregular maritime arrivals”), despite the fact that it is not illegal under Australian law to arrive without authorisation for the purpose of seeking asylum.
- **Denial of family reunion:** Refugees who arrived in Australia by boat have virtually no opportunities for family reunion. They are not eligible to sponsor family members for resettlement under Australia’s Refugee and Humanitarian Program and are considered the “lowest processing priority” under the family stream of Australia’s general migration program, meaning that their applications have very little chance of success (although the changes to processing priorities will not apply to those who have become Australian citizens). In addition, TPV and THC holders are not permitted to sponsor family members under any program and will not have the opportunity to become citizens unless the Minister for Immigration chooses to grant them permanent residency.

To keep up to date with the latest information on refugee policy, subscribe to the Refugee Council of Australia’s free monthly email bulletin. Send your contact details to admin@refugeecouncil.org.au

¹¹ See the Refugee Council of Australia’s policy brief on TPVs, <http://bit.ly/1oYZAb7>



Refugee Council of Australia

REFUGEE NEEDS AND TRENDS: A STATISTICAL SNAPSHOT

Updated August 2014

Global refugee numbers: The number of people displaced by persecution and conflict as at 31 December 2013 was estimated by the United Nations High Commissioner for Refugees (UNHCR) at 51.2 million – 33.3 million internally displaced persons, 16.7 million refugees and 1.2 million asylum seekers. Of the 16.7 million refugees, 11.7 million were refugees under UNHCR’s mandate and 5.0 million were Palestinian refugees under the mandate of the UN Relief and Works Agency.¹

Key countries of origin and asylum: The top five countries of origin for refugees under UNHCR’s mandate as at December 2013 were Afghanistan (2,556,556), Syria (2,468,369), Somalia (1,121,738), Sudan (569,212) and Democratic Republic of Congo (499,541). The five countries hosting the largest number of refugees were Pakistan (1,616,507), Iran (857,354), Lebanon (856,546), Jordan (641,915) and Turkey (609,938). UNHCR ranked Australia 48th for hosting refugees (62nd per capita and 85th relative to total national Gross Domestic Product) with 34,503 refugees.²

Protracted situations: UNHCR estimates that 6.4 million (61%) of the 10.5 million refugees under its mandate are in protracted refugee situations (left with no durable solution for five years or more).³ The University of Oxford’s Refugee Studies Centre says that the average length of displacement of these 6.4 million refugees is “approaching 20 years”.⁴

Asylum seekers and newly recognised refugees: In 2013 3,411,962 people sought asylum (875,876 individual asylum applicants and 2,536,086 seeking asylum through group recognition) and 2,821,115 people were recognised as refugees (2,536,086 through group recognition and 285,029 through individual recognition processes). The largest numbers of newly recognised refugees were in Lebanon (739,772), Jordan (671,931), Turkey (491,955), Iraq (173,479) and Egypt (124,760). As at 31 December 2013, 1,171,762 asylum cases were still pending. Australia received 0.34% of the global share of new asylum seekers (11,741 applications) and recognised 5,035 asylum seekers as refugees (0.18% of the global total).⁵

Syrian refugee crisis: The number of Syrian refugees in neighbouring countries in the Middle East grew by more than 600,000 during the first seven months of 2014. As at 14 August 2014, the number of Syrian refugees registered or awaiting registration with UNHCR in neighbouring countries was 2,966,798 – 1,154,955 in Lebanon, 822,128 in Turkey, 609,692 in Jordan, 218,040 in Iraq, 138,616 in Egypt and 23,367 elsewhere in North Africa (including Morocco and Algeria).⁶

Movements by boat: In 2013, the number of asylum seekers arriving in Australia by boat was 20,587, the highest figure recorded. In the five years to 31 December 2013, Australia has received 51,637 boat arrivals (excluding crew), an annual average of 10,327. The number of boat movements across the Gulf of Aden to Yemen in the five years to December 2013 has totalled 406,511, an annual average of 81,302. Over the same period, boat movements across the Mediterranean Sea to Greece, Italy, Malta and Spain totalled 189,432, an annual average of 37,886.⁷

Refugee resettlement: In 2013, only 0.8% of the world's refugees were resettled. The 98,426 refugees resettled included 71,411 through UNHCR processes with the remainder being resettled through non-UNHCR programs such as Australia's Special Humanitarian Program or the private sponsorship arrangements in Canada and the United States. 93.1% of the resettled refugees went to just three nations – United States (67.3%), Australia (13.4%) and Canada (12.4%).⁸

Global resettlement needs: In its planning for 2015, UNHCR has identified 958,429 refugees in need of resettlement. These refugees are divided (by region of asylum) between the Middle East and North Africa (316,039 people, 33.0%), Africa (278,756 people, 29.1%), Asia (198,465 people, 20.7%), Europe (149,699, 15.6%) and the Americas (15,470, 1.6%).⁹ Unfortunately, the number of resettlement places offered by governments to UNHCR is expected to be around 80,000.

Australia's global role in resettlement and refugee recognition: Australia resettled 13,169 refugees in 2013. It was second overall and first on a per capita basis and relative to national GDP. When the combined impact of refugee recognition and resettlement is considered, Australia contributed to 0.62% of the initial or further protection offered to refugees in 2013. By this measure, Australia was ranked 17th overall, 22nd on a per capita basis and 36th relative to national GDP.¹⁰

Australia's Refugee and Humanitarian Program: Of the 20,019 Refugee and Humanitarian visas issued by Australia in 2012-13, 12,012 were part of the offshore Refugee Program, 503 were offshore Special Humanitarian Program visas and 7,504 were Onshore Protection visas. The offshore Refugee Program included 1,637 Woman at Risk visas (13.6% of the Refugee program) and 71 In-Country Special Humanitarian Program visas.¹¹ During 2012-13, the Australian Government received 50,444 offshore Refugee and Humanitarian visa applications (28,968 for the Refugee Program and 21,476 for the Special Humanitarian Program)¹² and 26,427 requests for Onshore Protection (18,119 from asylum seekers who arrived by boat and 8,308 from other asylum applicants).¹³

Regional breakdown of Australian offshore program: In 2012-13, the regional breakdown of Australia's offshore Refugee and Humanitarian Program was Asia 46.9%, the Middle East and North Africa 40.3%, Sub-Saharan Africa 11.4% and Europe and the Americas 0.2%.¹⁴

Refugee arrivals to Australia since Federation: The total number of refugees settled in Australia between 1901 (when Australia became an independent nation) and June 2013 is estimated at 807,124. This figure includes 20,000 refugees settled as migrants before 1947 (Parliamentary Library estimate), 725,037 offshore arrivals since 1947 and 62,087 asylum seekers recognised as refugees.¹⁵

Immigration detention in Australia: As at 31 July 2014, 3,702 people were held in closed immigration detention facilities in Australia, of whom all but 611 were asylum seekers who had arrived by boat. 3,028 asylum seekers were living in the community under community detention arrangements and 24,724 in the community on Bridging Visa E. Of those in closed and community detention arrangements, 1,487 people had been detained in immigration detention for more than one year, of whom 173 had been detained for over two years. There were 712 children held in closed detention facilities, 1,547 in community detention arrangements and 2,008 in the community on Bridging Visa E. In addition, 2,273 asylum seekers were detained in Australian-funded Offshore Processing Centres in Nauru (1,146 people detained) and Manus Island in Papua New Guinea (1,127). They included 183 children detained in Nauru.¹⁶

This is an updated version of the statistical snapshot produced in February 2014, which was based on statistics included in the Refugee Council's submission on the 2014-15 Refugee and Humanitarian Program and an accompanying appendix of global and national statistics – see <http://refugeecouncil.org.au/r/isub.php>

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- ¹ UNHCR (2014). *Global Trends 2013*. Geneva: UNHCR, <http://www.unhcr.org/5399a14f9.html>, plus statistical annexes at [https://s3.amazonaws.com/unhcrsharedmedia/2013-global-trends/Global Trends 2013 data tables v3 ext.xls](https://s3.amazonaws.com/unhcrsharedmedia/2013-global-trends/Global_Trends_2013_data_tables_v3_ext.xls)
- ² UNHCR 2014, *Global Trends 2013*.
- ³ UNHCR 2014, *Global Trends 2013*.
- ⁴ See the PRS Project website coordinated by the Refugee Studies Centre, University of Oxford, <http://www.prsproject.org>
- ⁵ UNHCR 2014, *Global Trends 2013*.
- ⁶ UNHCR (2014). *Inter-Agency Regional Response for Syrian Refugees, 14 August 2014*, http://data.unhcr.org/syrianrefugees/regional.php#_ga=1.183011236.320270483.1383248675
- ⁷ Australian figures from Janet Phillips, Parliamentary Library, *Boat arrivals in Australia: a quick guide to the statistics*, 23 January 2014 [http://www.aph.gov.au/About Parliament/Parliamentary Departments/Parliamentary Library/pubs/rp/rp1314/BoatArrivals](http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1314/BoatArrivals) Figures for Gulf of Aden and Mediterranean Sea from UNHCR website (<http://www.unhcr.org/pages/4a1d406060.html>, accessed 17/8/14)
- ⁸ UNHCR 2014, *Global Trends 2013*. Global resettlement figure for 2013 compared to total number of refugees under UNHCR's mandate only.
- ⁹ UNHCR (2014). *UNHCR Projected Global Resettlement Needs 2015*. Geneva: UNHCR.
- ¹⁰ UNHCR 2014, *Global Trends 2013*.
- ¹¹ Department of Immigration and Border Protection (DIBP) (2013). *Australia's Offshore Humanitarian Program: 2012-13*, http://www.immi.gov.au/media/publications/statistics/immigration-update/australia_offshore_humanitarian_prog_2012-13.pdf
- ¹² Information supplied on request by DIBP.
- ¹³ DIBP (2013). *Asylum Trends: Australia 2012-13*. Canberra: Commonwealth of Australia, <http://www.immi.gov.au/media/publications/statistics/immigration-update/asylum-trends-aus-2012-13.pdf>
- ¹⁴ DIBP (2013). *Australia's Offshore Humanitarian Program: 2012-13*
- ¹⁵ For details on the sources of these figures, see *National and Global Statistics* appendix to the Refugee Council of Australia's submission on the 2014-15 Refugee and Humanitarian Program (see Table 11, p 8), http://refugeecouncil.org.au/r/isub/2014-15_Stats.pdf
- ¹⁶ DIBP (2014). *Immigration Detention and Community Statistics Summary 31 July 2014*, http://www.immi.gov.au/managing-australias-borders/detention/_pdf/immigration-detention-statistics-july2014.pdf