



Refugee Council  
of Australia



# **AUSTRALIA'S REFUGEE AND HUMANITARIAN PROGRAM 2012-13**

**Community views on current challenges and future directions**

**EXECUTIVE SUMMARY**

December 2011

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## SUPPORTING DOCUMENTS

This is an executive summary of the Refugee Council of Australia's submission to the Australian Government on the 2012-13 Refugee and Humanitarian Program. Supporting documents for this summary are:

- The full submission - *Australia's Refugee and Humanitarian Program 2012-13: Community views on current challenges and future directions* (51 pages)
- *Appendix - National and global statistics* (36 pages)
- *Community views on post-arrival settlement support* (23 pages)
- *Community views on asylum policy* (7 pages)
- A discussion paper circulated in October 2011 to assist the consultation process (25 pages)

These documents can be found online at <http://www.refugeecouncil.org.au/resources/intakesub.php>

*Cover photo: People displaced by violence in Libya sleep on the floor in Sallum, Egypt. More than 140,000 people fled into neighbouring countries in just two weeks after the violence erupted in Libya in February 2011, while thousands more were waiting to cross. © UNHCR / P. Moore.*

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## **INTRODUCTION**

The Refugee Council of Australia (RCOA), commissioned by the Department of Immigration and Citizenship (DIAC), conducted 43 consultations in eight states and territories, seeking community views on issues for consideration in planning Australia's 2012-13 Refugee and Humanitarian Program. More than 730 people, representing nearly 200 organisations and 33 refugee communities, participated in the process. This year's consultations were guided by four key themes, agreed on by DIAC and RCOA: (1) International refugee needs; (2) Regional co-operation in Asia-Pacific; (3) The composition of Australia's Refugee and Humanitarian Program; and (4) Factors in post-arrival settlement support.

### **1. INTERNATIONAL REFUGEE NEEDS**

During 2011, the global challenges in refugee protection were complicated by the humanitarian emergency in the Horn of Africa, the emergence of new crises in countries such as Cote d'Ivoire and Libya, little progress in many of the most protracted refugee situations, a decline in numbers of refugees returning home voluntarily and a reduction in refugee resettlement. A series of regional dialogues with refugee women and girls, held to mark the 60<sup>th</sup> anniversary of the Refugee Convention, highlighted the harshness of life for refugees in camps and many urban settings, drawing attention to the shocking realities of sexual and gender-based violence, overcrowded living conditions, inadequate health and education services and an absence of livelihood possibilities which forces many refugee women into survival sex. With effective solutions through official channels in short supply, an increasing number of refugees are trying to find their own solutions, including through onward movement to places of greater safety.

The Office of the United Nations High Commissioner for Refugees (UNHCR) conservatively estimates that 781,299 of the 10.55 million refugees under its mandate are in need of resettlement. Of these, 172,196 need resettlement in 2012. Unfortunately, the annual number of resettlement places potentially available for referral by UNHCR is only around 80,000 but many of these places are left unfilled because of lengthy security clearance procedures in some resettlement countries. Of refugees classified by UNHCR as being in need of resettlement, 40.7% are from countries of origin in Africa, 37.3% from the Middle East and South West Asia and 16.9% from the rest of Asia. More than half of them are from just two countries of origin – Afghanistan and Somalia.

RCOA's community consultation process for this submission highlighted many concerns for refugees globally and nationally. On an international level, consultation participants raised the plight of groups of vulnerable refugees in many parts of Africa, the Middle East and Asia, including refugees unable to gain protection through UNHCR or other channels, at risk of detention, facing discrimination and persecution and unable to support themselves. Participants saw a compelling need for Australia to expand its own refugee resettlement program, to use its role as chair of the Working Group on Resettlement in 2011-12 to advocate for greater resettlement to other countries and to provide greater aid to countries hosting large numbers of refugees.

Given the limited availability of resettlement as a durable solution for refugees, it is essential that every place is used as strategically as possible, not only to protect the most vulnerable refugees who cannot be protected by other means but also to contribute to the protection of refugees who will not have access to resettlement, using resettlement to unlock other protection opportunities. To maximise the strategic opportunities provided by resettlement, it is important that resettlement states, including Australia, link their resettlement work with diplomatic efforts and aid and development. Unfortunately, the largest scale resettlement programs over the past five years – from Thailand, Nepal and Malaysia – have resulted in little improvement in living conditions for refugees and asylum seekers who remain within those countries.

RCOA is encouraged by the pledge made on the Australian Government's behalf by Minister for Immigration and Citizenship, Chris Bowen, at the UNHCR Ministerial Meeting in Geneva in December 2011 to "support durable solutions for refugees through enhanced linkages between humanitarian assistance, early recovery and development programming". Australia's Refugee and Humanitarian Program for 2012-13 should be developed with the following principles in mind:

1. The need for resettlement to be made widely available as a durable solution, through the expansion of the Australian program and through Australia advocating for increased resettlement to other nations.
2. A focus on resettling the most vulnerable, including refugees living with disability or affected by sexual and gender-based violence, detention or isolation from community support.
3. An emphasis on maintaining family unity, both through resettlement processes and providing accessible and affordable opportunities for family reunion for refugees already in Australia.
4. The strategic use of resettlement to promote broader refugee protection, with Australia working constructively with countries of asylum to improve conditions for resident refugee populations.
5. The need to balance resettlement needs in different regions, with resettlement from Asia associated with efforts to improve regional cooperation balanced with the compelling need to respond to protracted situations in Africa and in the Middle East and South West region.
6. A coherent overarching government strategy for refugee protection, which articulates how the Australian Government is using the collective efforts of DIAC, the Australian Agency for International Development (AusAID), the Department of Foreign Affairs and Trade (DFAT) and other agencies to enhance the lives of refugees.

### **Recommendations**

1. RCOA recommends that the Australian Government develop a five-year plan to expand its offshore Refugee and Humanitarian Program to 20,000 places per year.
2. RCOA recommends that the Australian Government develop, publish and implement a framework for Australia's refugee resettlement program based on priority resettlement to the most vulnerable refugees, the promotion of family unity, the strategic use of resettlement and the consideration of global resettlement needs in the development of regional allocations.
3. RCOA recommends that the Australian Government support the announcement of the 2012-13 Refugee and Humanitarian Program with a clear articulation of how the Government plans to use the collective efforts of its different agencies (including DIAC, AusAID and DFAT) to promote refugee protection in the Asia-Pacific region and globally.

## **2. REGIONAL COOPERATION IN ASIA-PACIFIC**

This year has seen both positive and negative developments relating to regional cooperation on protection issues among Asia-Pacific states. On the positive side, the adoption through the Bali Process of the first in-principle regional agreement to act collectively on refugee protection, and the subsequent development of this agreement into a framework for implementation, represented a substantial breakthrough in working towards a cooperative regional approach to refugee protection. In a region where most countries are not party to the Refugee Convention and protection issues generally have a low profile, these discussions represented a significant and welcome step forward.

These positive developments have contrasted starkly with the negative leadership from the Australian Government in pursuing offshore processing arrangements with Malaysia and Papua New Guinea. One of the clearest messages to emerge from this year's consultations is that offshore processing in general, and Australia's arrangement with Malaysia in particular, were not seen as constructive approaches to regional cooperation. Participants viewed policies which defer Australia's protection obligations to other states as being counterproductive to the development of regional cooperation and expressed concern about approaches which risk causing serious harm to people seeking protection.

While consultation participants in general did not support current policy approaches, they did recognise the importance of regional and international cooperation to addressing the key protection challenges in the Asia-Pacific region and expressed clear support for the development of a sustainable and constructive regional cooperation framework. Consultation participants called on Australia to show leadership in the development of this framework by upholding its international

obligations towards people in need of protection and demonstrating a clear commitment to sharing responsibility for refugee protection in an equitable manner.

Many participants expressed frustration at the politicisation of refugee issues in Australia and the tenor of the current public debate, particularly with regard to the issue of boat arrivals. It was felt that the adversarial political climate in Australia and the overwhelming focus on asylum seekers arriving by boat at the expense of other protection issues had hampered the development of an effective and sustainable regional cooperation framework. Participants highlighted the need for more constructive engagement on this issue not only between states in the region but also between political parties in Australia.

A central message to emerge from the consultations was that regional cooperation should aim to address protection challenges at their source. Participants identified conditions in countries of origin and asylum as being the key factors compelling asylum seekers to travel to Australia by boat and advocated an approach aimed at improving these conditions. Participants also saw a clear role for resettlement in addressing protection issues in the region, noting the need to enhance safe, authorised channels for humanitarian migration. To this end, the idea of an increase in Australia's Refugee and Humanitarian Program was strongly supported.

The positive developments through the Bali Process over the past year provide a useful foundation for working towards a more constructive approach to regional engagement on protection issues. That said, some issues have yet to be satisfactorily addressed through the Bali Process and further development of proposals to date will be necessary to ensure that the suggested cooperative arrangements effectively address the region's key protection challenges. In particular, the Australian Government should work with other states in the region to: prioritise initiatives aimed at addressing the most pressing protection challenges across the region; give further consideration to protection issues which have not been sufficiently addressed through previous discussions; identify an appropriate balance of durable solutions; and demonstrate a commitment to genuine cooperation and sharing of responsibility.

### **Recommendations**

4. RCOA recommends that the Australian Government abandon offshore processing of asylum claims and that all future cooperative arrangements initiated and supported by Australia be informed by the principles outlined in Section 4.4.4 of this submission.<sup>1</sup>

5. RCOA recommends that the Australian Government continue to show leadership in refugee protection by:

- a) Modelling best practice in asylum procedures and protection;
- b) Reviewing policies which, if replicated elsewhere, would undermine protection principles; and
- c) Demonstrating its commitment to genuine cooperation and sharing of responsibility through strategies such as those put forward in Section 4.4.3 of this submission.

6. RCOA recommends that the Australian Government work with other states in the region to enhance the effectiveness of the proposed Regional Cooperation Framework by:

- a) Prioritising initiatives aimed at addressing the most pressing protection challenges across the region, with a view to addressing the root causes of flight and onward movement; and
- b) Giving further consideration to protection issues which have not been sufficiently addressed through existing discussions, including those outlined in Section 4.4.1 of this submission.

## **3. AUSTRALIA'S REFUGEE AND HUMANITARIAN PROGRAM**

Across all states and territories, consultation participants called on the Australian Government to increase the size of the Refugee and Humanitarian Program in order to better meet the needs of refugee communities in Australia and overseas. Many people spoke about the capacity of Australia

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<sup>1</sup> For RCOA's full submission on the 2012-13 Refugee and Humanitarian Program, see <http://www.refugeecouncil.org.au/resources/intakesub.php>

to do more, pointing to the fact that the program has remained at a relatively constant size for the past decade, and highlighting the significant contribution of refugees to Australian society and the economy that mostly goes unacknowledged in debates that focus predominantly on the costs of the Refugee and Humanitarian Program.

The Commonwealth Treasury drew attention to the value to Australia of immigration in its *Intergenerational Report 2010* (IGR), which highlighted the risks to the Australian economy and the pressures on government spending of Australia's ageing population. The IGR argues that Australia's future economic prosperity in the face of an ageing population will be strongly influenced by developments in population, participation and productivity. Refugees and humanitarian entrants are substantially younger on average than other new arrivals and much younger than the national average. In the five years to June 2009, the median age of humanitarian arrivals was just 20.0 years, a little over half the national median age of 36.9 years. In the same period, 72.5% of all humanitarian arrivals were under 30 years. Professor Graeme Hugo observes that humanitarian entrants as a group provide Australia with a significant demographic dividend by being much younger than the national population, with relatively high fertility, a large proportion of children who will be educated in Australia and ready to enter the Australian labour market, the lowest rate of settler loss of any group of new arrivals and an increasing proportion settling in regional areas.

Two messages regarding the composition of the Refugee and Humanitarian Program came through strongly in this year's consultations. The first is the inadequacy of the Special Humanitarian Program (SHP) in meeting the needs of refugee and humanitarian entrants seeking to reunite with family members, including close family. The negative impacts of family separation were highlighted across the country, including: the financial burden on recently arrived refugees of maintaining significant remittances to support family members in dire circumstances; people returning to dangerous situations in order to be with their loved ones; the mental health impacts of separation; people exploring ways to support family members to make dangerous journeys to Australia by boat; and the challenges for families who are reunited after prolonged separation in regaining their balance. Indeed, the viability of the SHP and its capacity to provide a pathway for families to reunite has come into question, particularly with the large number of split family applications currently being processed and in the context of a decline in the overall number of SHP visa grants from 8,927 in 2003-04 to 2,981 in 2010-11.

The second key message that came through consultations was that tensions and frustrations were being created between communities due to the numerical link between the onshore protection and SHP programs. Although concerns have been raised regarding this link in previous years, this year negative sentiments towards people arriving onshore were more evident than in the past, stemming from a perception (fuelled by public discourse and political debates) that onshore Protection Visa holders are "illegal" and "taking places from" people who are trying to sponsor family and community members under the SHP.

Issues related to Australia's treatment of asylum seekers were raised at almost every consultation this year, highlighting a wide range of concerns relating to immigration detention, community detention, community-based asylum seekers, statelessness, offshore processing and excision policy and the provision of legal advice to asylum seekers. It should be noted that, while many of the community consultations took place after the Government's announcement that onshore processing would be used for people arriving by boat, the details of the implementation of this policy were not yet known. RCOA has welcomed the Government's announcements related to the issuing of bridging visas and applauds the Department's active engagement with the sector in exploring the practicalities of these policy announcements. Concern, however, remains about the lack of progress in Australia's development of a procedure to determine statelessness, as well as the lack of meaningful or substantive outcomes for those identified as stateless who are currently languishing in detention centres in Australia.

The issues highlighted by communities concerning the size and current composition of Australia's Refugee and Humanitarian Program suggest the need for a substantial rethink of the program. Key challenges that need further exploration and consideration are:

- How to manage a program where there is a numerical cap on numbers, including (technically) a cap on the number of onshore Protection Visas when there are fluctuations in the numbers of onshore arrivals.
- How to develop a coherent strategy for determining the resettlement of refugees based on principles of vulnerability, regional cooperation in Asia-Pacific and the strategic use of resettlement to broker solutions for refugee communities in other countries.
- How to ensure that Australia fulfils its obligations under the Refugee Convention and provides protection to those who seek asylum onshore in a humane and timely manner.
- How to manage tensions between the onshore and offshore components of the program created by the numerical link between the programs.
- How to manage family reunion so that refugee and humanitarian entrants can enjoy family unity and mitigate the costs of separation on settlement outcomes.
- How to process split family applications with the current limitations in the size of the SHP, particularly in the context of the December 2011 High Court ruling regarding the "time of decision" requirement in the SHP and the significant numbers of unaccompanied minors arriving onshore in recent years who have or will submit applications under split family provisions.
- How to create a clear strategy and clarity regarding the involvement of volunteer organisations in supporting refugee resettlement.

Due to the growing complexity of the issues posed by the current composition of the Refugee and Humanitarian Program and the need for careful consideration, RCOA believes time is required to consider significant changes to the structure of the program. RCOA recommends that DIAC work with RCOA, the Refugee Resettlement Advisory Council (RRAC) and other interested parties during 2012 to explore options more fully.

### **Recommendations**

*7. RCOA recommends that the Australian Government demonstrate its unequivocal commitment to the Refugee Convention by ending the numerical link between the onshore Protection program and the offshore Refugee and Humanitarian program.*

*8. RCOA recommends that DIAC establish a process in 2012 for examining the future composition of the Refugee and Humanitarian Program, engaging RCOA, RRAC and other interested parties with a view to addressing the major gaps relating to how Australia provides resettlement to those identified as most in need, supports humanitarian family reunion and appropriately involves volunteer organisations in the resettlement process.*

*9. RCOA recommends that, in the short term, DIAC increase resources to speed up the processing time of SHP applications, including looking at staffing levels in critical overseas posts. RCOA recommends that DIAC also review how family reunion options are communicated to refugees before they arrive in Australia, examining what information could be provided in first language at time of application and how this information is reinforced through the Australian Cultural Orientation (AUSCO) program.*

*10. RCOA recommends that Australia's statelessness status determination process be enshrined in law and that the procedure:*

- *Be part of a streamlined, single process whereby applicants are assessed first against the refugee criteria, then against the complementary protection grounds and finally (if necessary) against a statelessness provision*
- *Be subject to independent merits and judicial review*
- *Not require the continued detention of a person while he/she undergoes the process*
- *Provide a substantive visa for a person found to be stateless, so as to ensure that he/she lives with dignity and security.*

*In the absence of a legislated approach, the statelessness status determination procedure should still adhere to the above principles.*

#### **4. POST-ARRIVAL SETTLEMENT SUPPORT**

Settlement challenges and gaps in services and support were again key topics of discussion at this year's consultations, covering issues including: regional settlement; the empowerment and involvement of former refugees; housing; health; education and training; employment; youth and family issues; income management and changes to settlement service models. Due to the large number of consultations held and the volume of feedback, and that many of the policy areas concern other government departments, RCOA has compiled a supplementary document to this main submission to capture more detail on particular settlement issues. Two key areas of post-arrival settlement support highlighted in Section 5 of this submission that RCOA believes are of particular relevance to the Immigration Minister and DIAC and where immediate follow-up is required are issues concerning unaccompanied minors and the settlement experience of refugees on onshore Protection Visas.

With regard to unaccompanied minors – both asylum seekers (unaccompanied minors [UAMs]) and those who are on permanent Protection Visas (unaccompanied humanitarian minors [UHMs]) – representatives of a number of services acknowledged that DIAC is undertaking work in this area. They particularly welcomed the national pilot announced by the Minister to provide targeted settlement support to 16- and 17-year-old UHMs in three states who arrive without identified carers and who have been assessed as capable of living independently. However, many issues will not be addressed by this pilot and require urgent consideration by the Minister and DIAC in order to ensure young people are cared for appropriately. In particular, consultations highlighted issues related to the lack of a national framework, conflict of interest and guardianship, confusion about the delegation of guardianship, concerns for young people relocating interstate, reports of inappropriate carers of UHMs and a lack of support for carers, issues about verifying the age of minors, and the need for supported transitions out of care.

A range of issues concerning the impact of immigration detention on the settlement experiences and outcomes of Protection Visa holders was raised by both former detainees and by settlement service providers across Australia. Feedback from consultations honed in on key issues that require consideration and policy responses, including the need for better communication and referral protocols between DIAC and Humanitarian Settlement Services (HSS) providers, concerns about the lack of appropriate services and support for a group presenting with higher incidences of trauma and mental health issues, the challenges for agencies in meeting the needs of a highly mobile group within current settlement service funding parameters, and ensuring there is appropriate orientation provision for Protection Visa holders who do not have the same opportunity to attend the pre-arrival Australian Cultural Orientation (AUSCO) program as offshore entrants.

#### ***Recommendations***

*11. RCOA recommends that a national framework for the care of unaccompanied refugee and asylum seeker minors be developed by DIAC as soon as practicable, with this framework to include considerations of: care requirements and resourcing; carer recruitment, support and responsibilities; delegation and guardianship roles and responsibilities; and transitions out of care.*

*12. RCOA recommends that DIAC review its internal and external communication procedures to ensure advance notification and important referral information is provided to HSS contractors about refugees being released from detention centres, to assist services in planning appropriate support.*