

## **REFUGEE PROTECTION NEEDS IGNORED IN RUSH TO ‘STOP THE BOATS’**

### ***A joint statement by Australian non-government organisations***

The Australian debate about asylum policy has now degenerated to the point where the central argument seems to be about which inhumane policy will cause the least suffering. Neither indefinite detention in the Pacific nor sending asylum seekers to uncertainty in Malaysia can be presented as a just or credible response to the needs of people seeking refugee protection in Australia.

The inconvenient truth for Australia’s political leaders is that the majority of asylum seekers who have entered Australia by boat have been found to need protection from persecution. Today, in Australian immigration detention facilities, there are asylum seekers who bear the physical scars of torture, children and adults who have witnessed family members being killed and many people who have had direct threats against their lives. The vulnerability of many asylum seekers must be a primary consideration in any government response to people movement.

Between 2001 and 2007, we saw that sending people to indefinite detention on Nauru or Manus Island, under conditions which violated well-recognised principles of international protection, resulted in a high incidence of acute psychological harm and trauma. Asylum applicants were effectively denied access to legal assistance. Many people were pressured to return home without an independent and thorough review of their protection needs, some of them tragically being killed upon return. Few governments were prepared to assist Australia to find resettlement options for those granted refugee status, as those subject to the Pacific Solution were rightly seen internationally as Australia’s responsibility.

The Australian Government’s plan to send 800 asylum seekers to Malaysia in return for the resettlement of 4000 refugees has been criticised because of the absence of basic legal protections for asylum seekers and refugees in Malaysia. Currently in Malaysia, asylum seekers are subject to arbitrary detention in appalling conditions and to caning. Refugees are left without legal status and have little choice but to work illegally to support themselves. People who are living or have lived in Malaysia as refugees report that they struggle to protect themselves from harassment, physical abuse, sexual assault and extortion.

While Australian political leaders continue to ask “How do we stop the boats?”, the solutions put forward will almost inevitably result in highly vulnerable people being punished as an example to others. Each policy alternative will rightly be criticised for the devastating impacts on those being punished. While it is clear that travel by boat to Australia is endangering lives and resulting in the serious exploitation of asylum seekers by people smugglers, policy makers must focus on why people take these risks and subject themselves to such exploitation.

The causes lie not only in persecution in countries of origin but also in the lack of effective protection in countries of first asylum. The current debate in Australia about conditions for asylum seekers in Malaysia has shone much-needed attention on the factors which result in asylum seekers choosing to move on to Australia and elsewhere.

The question Australian and international policy makers should focus on is not how to stop the boats but how refugees in Asia-Pacific can receive effective protection. With concerted regional and international effort, much can be done – and much needs to be done – to support countries in South-East Asia and South Asia to offer more effective protection to asylum seekers and refugees.

While never supporting the idea of a single regional processing centre in East Timor, our organisations supported the Gillard Government’s concept of working towards a regional cooperation framework on refugee protection. In August 2010, we supported a joint NGO statement emphasising the importance of assisting countries receiving large numbers of asylum seekers to improve processing of asylum claims, to offer adequate accommodation and support and to find timely solutions (including resettlement) for people found to be refugees. This cooperation, the statement noted, must include governments in the Asia-Pacific region, countries which resettle refugees, UNHCR and civil society organisations. In its March 2011 submission to the Australian Government, the Refugee Council of

Australia outlined a series of strategies the Government could adopt to promote the development of a regional protection framework, including through international diplomacy, development assistance, government-to-government cooperation and support for the work of NGOs.

Australia's decision to proceed with a transfer of asylum seekers to Malaysia has occurred before any significant change to conditions for asylum seekers and refugees in that country. No one who supported the idea of regional cooperation on refugee protection would have imagined that Australia would begin by sending 800 of its asylum seekers to a country which was still yet to offer any domestic legal protection to refugees or a strategy for how they would be fully protected from harassment and exploitation.

In the Asia-Pacific region, the lives of refugees will change for the better only when governments work together on policies aimed at improving protection standards. We call on the Australian Government and Opposition to abandon policies aimed at punishing groups of asylum seekers as an example to others and to work cooperatively on the challenging task of developing a regional framework to protect people fleeing persecution.

***This statement has been endorsed by:***

Refugee Council of Australia  
Act for Peace - National Council of Churches in Australia  
Amnesty International Australia  
Asylum Seeker Resource Centre  
Asylum Seekers Centre of NSW  
Australian Council for International Development  
Brotherhood of St Laurence  
Caritas Australia  
Coalition for Asylum Seekers, Refugees and Detainees  
Edmund Rice Centre  
Federation of Ethnic Communities' Councils of Australia  
Hotham Mission Asylum Seeker Project  
International Detention Coalition  
Oxfam Australia  
Refugee and Immigration Legal Service  
Settlement Council of Australia  
Uniting Church in Australia

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**Relevant earlier statements**

Joint NGO statement outlining key principles for a regional protection framework (issued August 2010):  
[http://www.refugeecouncil.org.au/resources/statements/100801\\_JS\\_Regional\\_Protection\\_Framework.pdf](http://www.refugeecouncil.org.au/resources/statements/100801_JS_Regional_Protection_Framework.pdf)

Executive summary of Refugee Council of Australia's March 2011 submission to Australian Government: [http://www.refugeecouncil.org.au/resources/intakesub/2011-12\\_IntakeSub\\_ExecSummary.pdf](http://www.refugeecouncil.org.au/resources/intakesub/2011-12_IntakeSub_ExecSummary.pdf)

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