

Working for a better way

Briefing paper by the community delegation on refugees 31 October 2011

Members of the delegation are from the following organisations

Amnesty
International
Australia

Australian Catholic
Bishops Conference

Australian Council
of Social Service

Australian Council
of Trade Unions

Australian
Federation of
Islamic Councils

Catalyst Australia
Inc.

ChilOut (Children
Out of Detention)

Edmund Rice Centre

Executive Council of
Australian Jewry

Federation of Ethnic
Communities'
Councils of Australia

John Menadue, AO

National Council of
Churches in
Australia

Oxfam Australia

Refugee Advice and
Casework Service

Refugee Council of
Australia

Uniting Church in
Australia Assembly

Welcome to
Australia

The community delegation on refugees comprises over 16 expert organisations from the faith and community sector who have visited federal Parliamentarians in Canberra on 31st October.

The delegation strongly supports the Government's decision to pursue onshore processing of all asylum applications and further supports the development of alternatives to detention for asylum seekers arriving by boat.

For the past decade, the NGO sector has grappled with the impact of a highly politicised and difficult environment in which to deliver services for refugees. The effect of this environment on vulnerable people and on community sentiment has been profound.

We greatly welcome an opportunity to work on a better way. While realising that there will be practical barriers to work through, a stronger alliance between the parliament and the NGO sector will be vital in successfully tackling problems and building broad support in the community.

We set out some key issues below.

Promoting community cohesion

1. Recent approaches to asylum seeker policy have eroded tolerance and led to a hardening of attitudes towards vulnerable migrant groups in the community. It has also contributed to the decline in public trust in the Australian Parliament.
2. We believe that Government must lead public opinion, not be captive to it. To do this an honest discussion with the Australian people is essential. In this regard the number of asylum seekers entering Australia must be kept in context. UNHCR statistics show that in 2010 Australia received 1.04% of global requests for asylum.
3. A more tolerant approach is within reach. But complex issues cannot be worked through in an environment that is polarised and politicised. This is evident from the failure of policy over the past decade to build any community or political consensus.
4. Community sentiment is starting to turn towards a more sensible approach that can achieve a range of positive policy outcomes beyond simple deterrence. Local communities have embraced new arrivals and, in partnership with the Government, the NGO sector has developed successful models to settle refugees by providing housing and other services. These experiences will be valuable in shaping the new environment and in tackling some of the practical issues that may arise.

Onshore processing and detention

5. As noted above, many NGOs have considerable experience working with asylum seekers on bridging visas and in community detention. We urge the Government to consult closely with these organisations as new arrangements are developed and trialled. In particular, the sector has a strong interest in collaborating to develop successful long term models.
6. We hold the view that the treatment of asylum seekers arriving by boat should comply with the Government's *New Directions in Detention* policy which stipulates that the mandatory detention applied to them is "for management of health, identity and security risks to the community". Priority should be given to identifying these risks and to moving asylum seekers for whom no risk is identified out of detention.
7. The security check applied to asylum seekers arriving by boat should be of the same standard applied to other temporary entrants to Australia – a check against the Movement Alert List database. We note that ASIO, in its *Report to Parliament 2010-11*, states:

"It is not a requirement under the *Australian Security Intelligence Organisation Act 1979* that irregular maritime arrivals (IMAs) remain in detention during the security assessment process." [see full extract Attachment B].
8. It is clear that the reliance on indefinite and lengthy detention is costly and causes harm to the health and welfare of those detained and to the workers involved in their care, management and supervision. Any detention beyond the period necessary to manage risks to the community is against the interests of all involved and against the national interest. This is most profoundly evidenced by the impact of detention on the mental health of detainees and commensurate high levels of stress and trauma affecting all who are involved in this system.
9. A new approach is not only healthy for the asylum seeker, but also for the communities in which they will live. By changing the conversation we can help new Australians to integrate into communities by knowing, simply, people aren't afraid of them and want to accept them. This is not only good for asylum seekers it helps build healthy and inclusive Australian communities.
10. Australia's policy of indefinite mandatory detention is not replicated in any other industrialised nation or any other nation which has ratified the Refugee Convention. Australia is the only country that detains asylum seekers for the entire period of the processing of their refugee claims. Unlike other mainstream forms of detention in Australia, the system applied to asylum seekers provides detainees with no option to seek independent review of their continued detention or to seek and receive an explanation of why the detention is being prolonged.

Regional Framework

11. Australia's decision to continue onshore processing provides a real opportunity to develop long term systems for the management, movement and status determination of asylum seekers in the region. Australia can lead a long term response that is in both the national and regional interest.

12. Offshore processing may provide a short term political fix, but ultimately it shifts responsibility towards a host country and undermines greater regional co-operation. It is also inconsistent with our efforts to advocate that our neighbours must take greater responsibility for the movement of people within their borders: if we are not prepared to take responsibility for asylum seekers who arrive here, how can we legitimately argue that other countries must do so?
13. We do not underestimate the task of achieving a regional co-operation framework for refugee protection. Change will happen incrementally, as each nation state takes steps which enable asylum seekers and refugees to live with a greater sense of security and greater hope of long-term protection. The establishment of a Regional Support Office, which Australia is supporting, is a constructive first step. With the right focus, this Office could play a vital role in encouraging nation states to move in tandem to improve refugee rights, through steps towards legal permission to stay, the right to work and domestic asylum legislation.
14. Australia can support the development of regional co-operation by making constructive offers of increased resettlement, targeted development assistance and enhanced government-to-government cooperation on refugee protection matters. Additionally, Australia can encourage other industrialised states to make similar offers of increased resettlement, aid and cooperation.
15. This focus on regional co-operation on refugee protection will do more than any other set of measures to address the insecurity which prompts refugees and asylum seekers to engage people smugglers in their efforts to find greater safety.

Attachment A

List of participants

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Chair, ChilOut

Brad Chilcott
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Welcome to Australia

Jeremy Spinak
Executive Council of Australian Jewry

Asmi Wood
Australian Federation of Islamic Councils

Attachment B

Australian Security Intelligence Organisation, Report to Parliament, 11 October 2011

Extract, pages 26&27 [emphasis added]

“ASIO completed 34,396 visa security assessments in 2010–11, as a result of which 45 visas were refused or revoked. ASIO issued 40 adverse assessments on counter-terrorism grounds, two on the grounds of involvement in people smuggling and three on the basis of counter-espionage or foreign interference concerns.

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Frequently asked questions about ASIO’s Role in Visa Security Assessments

Is ASIO responsible for all delays in the processing of irregular maritime arrivals?

An ASIO security assessment forms part of the Department of Immigration and Citizenship’s (DIAC) overall consideration of whether to issue a permanent Australian visa. DIAC is responsible for determining the refugee status for all irregular maritime arrivals and checks an individual’s identity and health prior to making a decision.

At 30 June 2011, there were 5,738 irregular maritime arrivals in immigration detention, of which 456 had been found to be refugees and were awaiting security assessment – this represented eight per cent of those in detention at that time.

Does ASIO require irregular maritime arrivals to remain in detention whilst it undertakes its security assessment?

It is not a requirement under the *Australian Security Intelligence Organisation Act 1979* that irregular maritime arrivals (IMAs) remain in detention during the security assessment process. The detention of IMAs is managed by the DIAC, in accordance with Australian Government policy.

ASIO is doing fewer assessments under the new referral framework. Does this mean ASIO is being less thorough in assessing whether IMAs pose a threat to national security?

In 2011, ASIO implemented changes to the security assessment process to ensure an intelligence-led and risk-managed approach to security assessments and to ensure ASIO resources are most appropriately utilised. Under the security referral framework, all IMAs continue to be the subject of intelligence-led and risk-managed security checking. The framework allows ASIO and the DIAC to work together to ensure only IMAs who have been found to be refugees are subject to a security assessment as part of considering their eligibility for a visa. As a result, ASIO has avoided much of the duplication experienced in the previous year, when it was required to assess all IMAs regardless of their eligibility for refugee status.”