

REFUGEE POLICY COMMITMENTS IN 2021 ALP NATIONAL PLATFORM

Compiled by Refugee Council of Australia, this brief outlines, word for word, the relevant commitments in the Australian Labor Party's 2021 National Platform¹ regarding refugee policy, categorised into the following:

1. Border control and offshore processing
2. Onshore asylum policy and legal processes
3. Immigration detention
4. Refugee resettlement and Australia's Humanitarian Program
5. Australia's engagement in refugee protection in Asia

1 Border control and offshore processing

62. (Page 84) To maintain Australians' confidence and trust in the integrity of our migration system, Labor will **fund and maintain robust border security measures** that support the orderly processing of migration to our country and protect our national interest and our national borders.
63. To combat all forms of people smuggling, trafficking and exploitation by boat, plane or other means, Labor will **engage with Australia's neighbours to address 'push factors'** by seeking innovative, effective and lawful solutions to the irregular movement of people through the region.
1. (Page 126) For the Australian people to have confidence and trust in the integrity of our migration system, Labor will fund and maintain robust border security measures that support the orderly processing of migration to our country and protect our national interest and our national borders.
2. Labor will ensure **asylum seekers who arrive by irregular means will not be punished** for their mode of arrival.
3. Labor is united in its commitment to prevent further loss of life at sea of vulnerable children, women and men. Labor will:
 - o Meet its obligations to the **maritime principle of safety of life at sea** which requires a response to assist in the rescue at sea of vessels in distress;
 - o Consider introducing **further penalties for serious people smuggling offences**; and
 - o Ensure **repatriation of crew members** who are proven to be juveniles.
4. To support Australia's strong border security regime, Labor will maintain:
 - o An architecture of **excised offshore places**; and
 - o The **non-statutory processing on Christmas Island** of persons who arrive unauthorised at an excised place, except where other arrangements are entered into under bilateral and regional arrangements.
5. Labor will take **advice from the UNHCR** in relation to any arrangements with third countries to ensure resources and commitments provide appropriate settlement support services to refugees, including health and welfare services. Labor will prioritise establishing **durable and suitable third country resettlement** agreements.
7. Labor **will not pay people smugglers** to engage in any form of people smuggling.

¹ Available at www.alp.org.au/about/national-platform/

13. (Page 127) Labor will **not detain, process or resettle lesbian, gay, bisexual, transgender or intersex refugees or asylum seekers in countries which have criminal laws** against any of these communities as it makes these places unsafe environments for all of them.
14. Labor recognises that successive Coalition Governments have failed to negotiate viable and timely regional resettlement arrangements, which has left refugees and asylum seekers including children languishing in indefinite detention. Labor believes that whilst these arrangements are negotiated, the Australian Government is not absolved of its obligation to provide appropriate health, security, and welfare services to asylum seekers. Labor will:
 - Work to negotiate on, and agree to, regional resettlement arrangements and **resettle eligible refugees as a priority**;
 - Continue to **support the United States Refugee Resettlement Agreement** and **accept New Zealand's generous offer** to resettle refugees by negotiating an agreement on similar terms as the United States Agreement; and
 - Ensure **appropriate health, security, and welfare services** for asylum seekers; and
 - Improve the **medical transfer process**, establish an Independent Health Advice Panel to provide medical advice and maintain ministerial discretion in all decision making.

2 Onshore asylum policies and legal processes

64. (Page 85) Under the Refugee Convention, people seeking asylum have the right to seek protection and asylum. Labor will continue to show global leadership and **increase Australia's humanitarian refugee intake** and we will **treat people seeking our protection with dignity and compassion** in accordance with our international obligations, the rule of law and the principles of fairness. Labor believes as a nation we must not harm people seeking refuge.
10. (Page 119) Labor will deal with the complex issue of those seeking Australia's protection by giving expression to the **values of compassion, justice, human rights, fairness and generosity**. These are values which are at the heart of the Australian identity.
11. Labor will treat people seeking our protection with dignity and compassion and in accordance with our international obligations, the rule of law and core Australian principles of fairness and humanity. Labor will **legislate to enshrine our international obligations into Australian domestic law**.
12. Under the Refugee Convention, asylum seekers have the right to seek protection and asylum and, regardless of the mode of arrival, this is not illegal under Australian or international law. Accordingly, Labor **rejects the practice of referring to asylum seekers as 'illegals'**.
13. Australia **must not harm people seeking refuge**.
14. **Family reunion** for migrants and refugees is important to successful settlement.
15. The issue of those seeking protection is both a global and regional one. Accordingly, in order to achieve a long-term resolution to the issue, it must be dealt with through **international cooperation and not unilateral action**. Within our region, Australia must play a leadership role. Recognising the value of a bipartisan approach in this policy area in the past, Labor will work towards a bipartisan approach once again.
16. A fundamental principle in treating those seeking protection with humanity is to **provide as much certainty as possible**. An aspiration of certainty in all matters around asylum seekers, including the duration of assessing refugees' claims, must underpin Australian policy.
1. (Page 123) Those found to be **owed Australia's protection** under the Refugee Convention, Complimentary Protection or and other international instruments will be given **permanent protection** under the Migration Act 1958

2. Those **not found to be owed Australia's protection** under the Refugee Convention, Complimentary Protection or and other international instruments will be promptly **returned only after any relevant legal avenues have been exhausted**.
3. Labor supports the existing definition of 'serious harm' and 'persecution' including the current risk threshold of the '**real chance test**'.
9. Temporary Protection Visas place refugees in an ongoing State of uncertainty and prevent meaningful settlement, creating hardship for refugees and denying Australia the benefit of their contribution.
10. Labor will **abolish Temporary Protection Visas and Safe Haven Enterprise Visas** and transition eligible refugees onto permanent visa arrangements.
11. Labor believes protection claims made in Australia should be assessed and reviewed on the individual merits with **procedural fairness** ensuring our international human rights obligations are met. Accordingly:
 - The assessment and review of protection claims will be underpinned by **robust, efficient and transparent processes** that ensure fair and consistent outcomes, including access to review and independent advice;
 - The assessment and review of **protection claims of specific lesbian, gay, bisexual, transgender, intersex and queer asylum seekers** will be underpinned by appropriate and relevant assessment tools and processes that reflect cultural experiences of the lesbian, gay, bisexual, transgender, intersex and queer community;
 - The **assessment and review of protection claims must be independent** and free from any political or diplomatic interference;
 - The processing of protection claims must be streamlined to enhance the quality of decision making, to provide more efficient pathways for **prompt resolution of visa status** and to alleviate the courts' immigration case-load burden; and
 - The Stone Review process will be maintained as an important mechanism for **ensuring the fairness of Australia's security assessment system**; and
 - Labor will create an **independent Refugee Review Tribunal** and abolish the Immigration Assessment Authority. The Tribunal will allow for procedurally fair, simple, affordable and accessible processes and procedures, including in relation to adverse credibility findings, for the review of refugee related decisions.
12. Labor will require the National Security Legislation Monitor to advise on establishing other mechanisms for:
 - **Independent review of the adverse security assessments** that ensures procedural fairness while recognising that processes may be required to protect intelligence sources and methodology; and
 - The management of those whose adverse assessment is upheld.
14. Reporting on the '90 day rule', which requires that refugee status determinations are concluded within 90 days from the time of application, has been an important accountability measure in ensuring the Government operates in a timely way in assessing protection applications.
15. Labor will **reintroduce the 90 day rule** into the Migration Act.
16. The existing fast track assessment process under the auspices of the Immigration Assessment Authority and the limitation of appeal rights does not provide a fair, thorough and robust assessment process for persons seeking asylum.
17. Labor will **abolish this fast track assessment process**.
18. Labor believes the Refugee Convention plays a critical role in Australian law. Referring to the Refugee Convention in the Migration Act 1958 is good legislative practice.

19. Labor will **reintroduce the appropriate references to the Refugee Convention** into the Migration Act 1958.
20. Protection visa applications made in Australia should be **assessed by Australians on Australian Territory**.
21. Under legislation passed by Labor, **complementary protection** claims should be considered by way of the protection visa framework.
22. Labor will work to ensure asylum seekers have access to **appropriate, independent, government-funded legal advice** while working through their claims for protection.
23. In assessing asylum claims where the fear of **persecution arises from a person's lesbian, gay, bisexual, transgender, intersex and queer status**, the fact that the country the person is fleeing has criminal penalties for engaging in consensual homosexual sex is sufficient of itself to establish that fear of persecution is well-founded, and any assessment of the asylum seeker's identity and fear must take account of the very different manifestations of lesbian, gay, bisexual, transgender, intersex and queer identity that other cultures, especially ones profoundly hostile to lesbian, gay, bisexual, transgender, intersex and queer people, necessarily engender.
24. Labor will ensure asylum seekers who self-identify as lesbian, gay, bisexual, transgender, intersex and queer will be **assessed by officers who have expertise and empathy with anti-discrimination principles and human rights law**. Officers, translators and interpreters at all levels of the assessment process will have specific lesbian, gay, bisexual, transgender, intersex and queer cultural awareness training to ensure the discrimination asylum seekers face in their country of origin or transit are not replicated.

3 Immigration detention

17. (Page 119) Labor will work to ensure **those in detention facilities are treated with dignity and respect** and have access to an appropriate standard of care and substantive access to health and education services while held in immigration detention centres.
13. (Page 124) Labor will explore **options other than indefinite detention**, including third country resettlement, to deal with refugees with adverse security assessments in a way that does not jeopardise Australia's national security interests.
6. (Page 126) Labor will ensure there is a **strong, independent voice** within government to advocate **for the rights, interests and well-being of children seeking asylum** within the immigration system, including those in immigration detention. Labor will appoint an officer independent of the Department of Home Affairs, backed by the administrative resources and statutory powers necessary to pursue the best interests of those children, including the power to bring court proceedings on a child's behalf. This will be done without reducing the Minister's obligations in relation to unaccompanied non-citizen children.
8. Under Labor's policies, unauthorised arrivals who enter for the purpose of seeking asylum **will be mandatorily detained**, for management of health, identity and security risks to the community. Labor will strive to ensure this is **for no longer than 90 days**.
9. Labor believes **community-based assessment** is the most reasonable, humane and cost-effective approach for supporting asylum seekers while their claim for protection is assessed.
10. Labor's **humane and risk-based immigration detention policies** and practices will be guided by key immigration detention principles, namely:
 - Detention that is indefinite or otherwise arbitrary is not acceptable and the length and conditions of detention, including the appropriateness of both the accommodation and the services provided, will be subject to regular review;

- Detention will occur in a Government-run immigration detention centre appropriately located close to services and relevant support and is only to be used as a last resort and for the shortest practicable time;
 - People in detention will be treated fairly and reasonably within the law;
 - People in detention will be provided an appropriate standard of care including the provision of health, mental health and education services a standard consistent with that afforded to the Australian community; and
 - Conditions of detention will ensure the inherent dignity and safety of the human person.
11. Labor supports the UN Convention on the Rights of the Child. Accordingly, Labor's humane and risk-based immigration detention policies and practices will include a commitment to ensure that after the necessary health, identity and security checks **every humanly practical effort will be taken to remove children and their families from immigration detention** centres into alternative suitable arrangements.
 12. Unlawful non-citizens will be subject to **mandatory detention** where they present **a proven unacceptable risk** to the community.
 15. (Page 128) Labor will ensure all Australian Government involvement in **detention** facilities it operates or funds is **subject to transparent, independent oversight**. Provisions for this oversight will be reflected in all contracts with service providers including through providing effective and consistent protections for whistle-blowers. Labor will use its best endeavours to provide for this oversight in any relevant international agreements, including by enabling Comcare to fulfil its regulatory obligation to investigate all serious matters within Australian-funded onshore immigration detention centres and offshore regional processing centres.
 16. Recognising the inequities of the policy of charging immigration detainees a daily maintenance rate while in immigration detention, Labor extinguished such **detention debts** and will **oppose any attempts to reinstate this practice**.
 17. As soon as the reasons for mandatory detention have ceased every effort must be made to remove asylum seekers from immigration detention centres through community detention or the granting of bridging visas with work rights. People seeking asylum will have **means-tested access to funded migration assistance, and to appropriate social services**, including income, crisis housing, healthcare, mental health, community, education and English as a Second Language support during the assessment of the claim for protection.
 18. The provision of services at immigration detention centres will remain with private sector contractors for the term of the current contracts. In **evaluating the future form of detention** facility service provision, the views of all stakeholders, including the relevant trade unions must be taken into account.
 19. Labor will legislate to **impose mandatory reporting of child abuse in all onshore immigration detention facilities** and offshore regional processing centres and work with all State and Territory governments to ensure all unaccompanied minor refugee children are covered by the relevant child protection authorities.

4 Refugee resettlement and Australia's Humanitarian Program

65. (Page 85) Labor will maintain Australia's reputation for having some of the best migrant settlement services in the world. Labor will seek to improve these services through **improving the availability and integration of Commonwealth-funded migrant and settlement services**.
4. (Page 123) Labor will support a humanitarian migration program that reasonably **responds to international humanitarian crises** as they arise.

5. In continuing Australia's generous humanitarian program, Labor will provide **appropriate support for the travel and resettlement of refugees** and others requiring Australia's protection.
6. State, Territory and local governments support refugees to settle in Australia. Labor will facilitate opportunities for business, community groups, individuals and State, Territory and local governments to participate in and support the resettlement of refugees through a **community sponsored refugee resettlement program**. Any community sponsored places should be **in addition to** the government's refugee and humanitarian program.
7. Labor aspires to progressively increase Australia's **government funded humanitarian intake to 27,000 places** per year.
8. Labor aspires to progressively increase the **community sponsored refugee program intake to 5,000 places** per year.
25. (Page 125) Australia's settlement support services are regarded as the best in the world. Labor will maintain this and accordingly will direct **sufficient focus and resources to our settlement services**.
26. Labor will provide appropriate **English language tuition and tailored employment programs** as essential settlement services which are critical to the achievement of full social and economic participation of refugees.
27. Labor will seek to improve the availability and integration of Commonwealth-funded migrant and settlement services. Labor will ensure settlement service policies are:
 - **Informed by advice** from the Settlement Services Advisory Council, the Settlement Council of Australia and other key stakeholders and the community; and
 - **Coordinated in partnership** with State and Territory governments, local governments, community organisations and service delivery providers.
28. Labor will ensure **services across government for refugees are culturally responsive**, universally accessible and consistent with Labor's social inclusion agenda. Recognising the **value of community support groups** in providing settlement services, Labor will support the involvement of such groups.
29. Refugee settlement can have a particularly positive effect in rural locations and these people play an important role revitalising rural and regional communities. Labor supports the **settlement of suitable humanitarian entrants in regional locations** with the support of State, Territory and local governments and local communities.

5 Australia's engagement in refugee protection in Asia

18. (Page 119) The world is experiencing its greatest humanitarian need since the Second World War with the largest number of displaced persons since that time. Labor believes that Australia should lead debate on the **establishment of a best practice framework**, including new regional agreements and understandings required to ensure the Refugee Convention and the international protection system function effectively in this environment. Australia understands that such a framework must include working to ensure better support for those countries that host the great majority of the world's refugees and people seeking asylum, to directly address the needs and rights of displaced persons in these places. This includes encouraging countries in our region to provide protection to those in need and ensuring Australia responds by accepting our responsible share of the world's resettlement of refugees.
19. Labor acknowledges the role of the Office of the United Nations High Commissioner for Refugees (UNHCR) as the international agency dealing with the world's response to this humanitarian need. In pursuing Australia's responsibilities as a civilised and modern nation,

Labor will ensure Australia is one of the leading contributors to the global work of the UNHCR with a significant **increase to funding for UNHCR**.

20. Australia has a particular responsibility to show **humanitarian and protection leadership in South East Asia**. Accordingly, Labor seeks a leading role working with South East Asian nations in the region and in particular with Indonesia to build a regional framework to improve the lives of asylum seekers. Labor will give appropriate consideration to UNHCR refugee registrations to assist Indonesia and the UNHCR to work through the backlog. Subject to Australian vetting processes and sovereignty concerns Labor will positively considered such refugees for inclusion within the increased humanitarian intake.
21. To combat people smuggling Labor will engage with Australia's neighbours to address 'push factors' by **seeking innovative, effective and lawful solutions to the irregular movement of people** through the region. This approach will include multilateral engagement through Australia being a co-chair of the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime (the Bali Process), and new and deeper bilateral arrangements of a type envisaged by the Regional Cooperation Framework agreed at the Bali Process Ministerial Conference in March 2011.
22. Labor will seek to ensure **appropriate multilateral infrastructure** is in place to build a humanitarian regional framework which may include seeking to extend the work of existing multilateral processes.
23. In recognising that addressing 'push factors' in transit countries will lessen the need for people to take a boat journey, Labor will **work with the UNHCR to help build its capacity in South East Asia** to pursue its mandate and assist the region's asylum seekers.
24. The phenomenon of people smuggling has a long history arising from the need for people to escape from danger and persecution. Labor also recognises that those who decide to leave a country in perilous circumstances have the right under the Refugee Convention to determine their means of departure. However, recognising the risk to life of people travelling on unsafe, unseaworthy and overcrowded boats often operated by criminal syndicates, Labor supports measures to reduce such journeys by working with regional neighbours and the UNHCR to **eliminate any influence that people smugglers may have** over vulnerable protection claimants by addressing people smuggling at its source, in countries of first asylum and transit countries.
25. The most significant source country in South East Asia is **Myanmar**. Myanmar has undertaken enormous political and economic reforms, but we are deeply concerned by events that have led to the large-scale movement of Rohingya refugees into neighbouring countries, particularly Bangladesh. Labor will work with Myanmar in the critical task of protecting human rights for all of its people and ensure our aid and cooperation programs with Myanmar are suitably tailored to do so.
26. In pursuing strong regional arrangements Labor will seek to ensure they provide **access to protection in countries of first asylum and transit countries** to deter secondary movements of asylum seekers through:
 - The developing of capacity to improve accommodation, work rights, access to health and education services and other living standards for asylum seekers;
 - Expediting the claims for refugee status by asylum seekers; and
 - The seeking of durable solutions.
36. (Page 122) Labor will appoint a **Special Envoy for Refugee and Asylum Seeker Issues** with responsibilities for advancing Australia's interests and ensuring Australia plays a global role in the resettlement of displaced people.

37. As the Government should have done, Labor will refer the United Nations **Global Compact on Migration** for consideration through the proper parliamentary committee process.