

# Protecting the Persecuted: Justice for asylum seekers and refugees

## OUR VISION

In the Hebrew Scriptures God is often identified as the God who cares for the exiled and the stranger. God brings justice to the oppressed and calls on the people of faith to care for the strangers and aliens in their midst as they care for each other. Refugees are identified in the Bible with widows and orphans as the most marginalised people, the most at risk, and the test of faithful obedience to God was how a community or individuals cared for these most vulnerable people. Hospitality to the stranger therefore became one of the strongest moral forces in ancient Israel.

The Christian story continued to uphold God's call to solidarity with the homeless. Mary and Joseph were forced to take Jesus and hide in Egypt as Herod sought to kill the baby Jesus. As an adult Jesus travelled through strange lands, choosing to spend time and share meals with the most marginalised and oppressed people of his society. Jesus called on people to love their enemies, give all they had to the poor, and offer hospitality to strangers. He taught that faithful obedience to God was marked by such deeds and that it would be how well people responded to strangers and to the poor that would identify them as people of faith.

It is in this tradition of welcoming the stranger and showing, in word and deed, God's love for the outcast and dispossessed that we seek to advance a world where people in need of protection are offered care and safety, without discrimination and without having to risk their lives. The Church is called to be a place of welcome. As faithful disciples we are to provide care and comfort to those who come to this land as strangers, seeking safety. We are called to act with compassion, grace and generosity, and all that we do must be a reflection of God's love for the world.

## A JUST SOCIETY

When we consider, as Christians, what is necessary for a just society, the imperatives to care for the stranger and bring freedom to the oppressed are central. A just society upholds the dignity of every person and the life of every person is valued; those who are most vulnerable and in need of care and protection find safety and security and are able to fulfil the hope of a decent future for themselves and their family. In a just democratic society, people and governments work together to ensure that systems, structures, policies and public conversation are life-affirming including respectful or our differences and attentive to the special needs of people who have suffered violence, abuse and persecution. Public policies which seek to punish people who have done no wrong and political rhetoric which serves to demonise a group of people are unjust and must be resisted as we work together to build a society where all people can live in peace and hope.

## FACING THE ISSUES

A recent poll found that just under 80 per cent of Australians believed that MPs and Senators are “playing politics rather than being genuinely concerned about asylum seekers.”<sup>[1]</sup> We only need to pick up the newspaper or listen to an interview with our politicians to witness a discourse of deliberate misinformation (at best) and hatred and banal racism (at worst). This rhetoric, played out in the political arena and media outlets throughout the nation, is dangerous. It leads to increasingly harsh, damaging and potentially life-threatening policies, destroys the hopes of asylum seekers for protection in a place of safety and hardens the hearts of Australians. Ironically, the level of attention and the shrillness of the debate are completely out of proportion to the numbers of arrivals which are, relative to other countries in the world, almost miniscule.

Worldwide, there are currently more than 43.7 million people who have been forcibly uprooted by conflict and persecution, according to the United Nations High Commissioner for Refugees (UNHCR).<sup>[2]</sup> This includes 16.2 million refugees and asylum seekers, and 27.5 million internally displaced persons. It is the poorest countries in the world that bear the greatest responsibility for housing displaced people, with 80 per cent of refugees situated in developing countries.<sup>[3]</sup>

With an estimated 83,400 asylum applications, the US was the largest single recipient of asylum seeker claims in 2012 – the seventh year in a row this has been the case. Germany was second, followed by France, Sweden and the UK. These five countries together accounted for just under 60 per cent of all asylum seeker claims. In Australia, a total of 15,800 asylum seeker claims were lodged in 2012, a 37 per cent increase from 2011.<sup>[4]</sup> It is important to remember that – by comparison – asylum levels in Australia are and continue to remain well below those recorded by many other industrialised and non-industrialised countries.<sup>[5]</sup> In fact, when all refugee-hosting countries are assessed according to their national wealth, Australia ranked 91<sup>st</sup>.<sup>[6]</sup>

The current Australian Government has reopened offshore detention centres on Nauru and Manus Island and – as a result of the Houston Committee Report<sup>[7]</sup> – have introduced what is referred to as a 'No Advantage' policy. This means that those who attempt to reach Australia by boat will have to wait for the same period of time they would have waited for resettlement had they stayed where they were. No-one can work out how long this will be but the Government has indicated it could be more than 5 years.

This policy is at least partly based on one of the most common and dangerous myths about asylum seekers who arrive by boat – that they should 'join the queue' and that they are taking the place of 'real' refugees. In countries like Iraq and Afghanistan, there is no queue for asylum seekers to join, as there is nowhere to have their applications assessed. The perception of 'queue jumping' is an artefact of changes to policy; in 1996 the Howard Government merged the 'onshore' and a part of the 'offshore' components of the Refugee and Humanitarian Program,<sup>[8]</sup> effectively reducing the number of places available for the resettlement of refugees and asylum seekers, and creating the persistent myth of 'queue jumping'.<sup>[9]</sup> If a queue did exist and all the world's refugees were in it, a newly recognised refugee would have to wait 170 years for resettlement.

Punitive policies are based on the assumption that some refugees are more worthy than others; in this case, refugees who have applied for resettlement offshore are understood to be the 'legitimate' refugees while onshore refugees (especially those who arrive by boat) are not. Under the Refugee Convention, however, everyone has the right to apply for protection. Signatories to the Refugee Convention, such as Australia, have an obligation under international law to assess claims for protection, and not to punish or discriminate against asylum seekers based on how they arrived in Australia.<sup>[10]</sup>

Successive governments have argued that tough policies serve to stem the flow of boats and save the lives of those who risk the often-treacherous journey. There is simply no evidence that policies designed to deter asylum seekers work.<sup>[11]</sup> There will always be people fleeing situations of persecution and violence. The numbers of asylum seekers seeking protection in Australia will fluctuate as conflicts escalate or ease.

The Uniting Church has a long history of speaking out against many of Australia's punitive policies in relation to asylum seekers and refugees. Of particular concern are national policies which continue to focus on security, border protection, deterrence and punishment rather than on humanitarian need. We have recently spoken out on offshore processing and

the conditions on Manus Island and Nauru, the continued detention of children, the treatment of unaccompanied minors, indefinite mandatory detention, and the right to work for asylum seekers living in the community.

The current debate about asylum seekers arriving by boat has demonised vulnerable people and diminished Australia's reputation as a just nation. The next Australian Government will have an opportunity to reestablish our international reputation as a community that cares by respecting the basic human rights of asylum seekers, swiftly assessing the protection applications of asylum seekers who arrive on our shores and contributing to regional and global solutions to address the root causes of mass displacement.

## **SEEKING JUST POLICIES**

### ***Everyone has the right to seek our protection***

Under international law, a person is permitted to enter Australia for the purpose of seeking asylum.<sup>[12]</sup> Australia is a signatory to the Refugee Convention and its protocol. Under the Convention, Australia has promised that we will receive asylum seekers who come seeking our help and assess their claims for protection.

The Australian Government's approach to asylum seekers should not only reflect our international obligations but should display a generous, rather than minimalist interpretation of those obligations. We should not punish those who arrive on our shores for failing to 'wait their turn' in the mythological queue or for moving through countries which are not signatories to the Convention and which do not provide any security or future.

There are millions of refugees who cannot access a United Nations High Commissioner for Refugees (UNHCR) office or other official pathways to register for refugee status. Some countries do not have UNHCR offices or Australian embassies. Some refugees are unable to physically access such offices because of travel restrictions or the danger or cost involved in getting there. It is unreasonable to expect that asylum seekers will remain in countries where they are held in detention centres where conditions are shocking and there is no hope of finding a safe home in the near future. Even once someone has registered with the UNHCR in Indonesia, for instance, they are not permitted to seek employment or apply for residency and children are not able to go to school. This is not an acceptable solution for people who have already suffered grave trauma.

### ***Treating all who seek our protection humanely***

Policies which govern how we treat people seeking asylum in Australia need to reflect our understanding that many asylum seekers have experienced grave trauma. It is therefore vital that we do not compound their trauma with policies and practices, such as mandatory and indefinite detention or temporary visas without the right to work or study, that punish people for their mode of arrival or use them to 'send a message' to people smugglers.<sup>[13]</sup>

Any assertion that 'soft' policies have caused an increase in asylum seekers arriving to Australia by boat is not supported by evidence. One result of the Temporary Protection Visa system which was abolished in 2008 was an increase in the numbers of women and children on boats coming to be with their husbands and fathers as they were not allowed the right to seek family reunion under the terms of this visa. Both Government and Opposition have spoken about reintroducing this visa class.

The assumption that policies which relate to vulnerable people need to be 'hard' at all is also of concern. Rather than soft or hard, our public policies would be better judged by what they contribute towards building a decent society where all people are valued and can flourish.

### ***Mandatory detention***

Australia is one of the only countries in the world with a policy of mandatory detention for all asylum seekers who arrive in Australia without a visa.

In late 2011, the Government announced that, following initial health and security checks, increasing numbers of people in immigration detention would be moved into the community. While the Uniting Church welcomed this move, it has lamented the recent developments in Australia's refugee policy, including the implementation of offshore processing and the re-opening of the detention centre on Nauru.

The negative effects of mandatory detention are well documented. Asylum seekers have already experienced trauma before arriving in Australia, including torture, separation from family and community, extreme hardship and food scarcity and appalling conditions during their journey here.

These traumas are exacerbated by our current system of indefinite detention, resulting in high rates of self-harm and attempted suicide amongst asylum seekers and refugees.

Children and young people are particularly at risk of serious long-term harm. While government policy dictates that children will not be detained, as of 1 March 2013 there were 1,983 children in immigration detention, including 998 in secure locked facilities and 985 detained in the community (the preferred option for children as it allows them to live in community-based accommodation without the need to be escorted outside a locked facility). All of these children are at risk of developing post-traumatic disorders as a result of their detention periods – a legacy that will last long after they have been released. Feelings of hopelessness and despair may manifest in long-term depression and anxiety, particularly for unaccompanied minors.

### ***Offshore detention is not a solution***

Offshore processing allows for asylum seekers' applications for protection to be processed outside of Australia's territory and legal system. This approach risks shifting Australia's responsibilities for processing and protecting refugees onto developing countries in our region and leaving people in detention indefinitely while Australia searches for other countries to resettle them.

Offshore processing of asylum seekers who are intercepted before they reach the Australian mainland began in 2001 after the 'Tampa crisis'. In 2006, the Australian Government announced that this process would extend to all asylum seekers who landed in Australia without a valid visa. Even if they were found to be refugees, they did not have automatic access to asylum in Australia. While the policy was abandoned at the end of 2007, recent amendments to the Migration Act following the release of the Houston Panel Report in August 2012, has seen this policy reinstated with the opening of detention centres on Nauru and Manus Island.

The reinstatement of offshore processing has been premised on the Panel's 'No Advantage' test, which stipulates that 'asylum seekers [should] gain no benefit by choosing not to seek protection through established mechanisms'.<sup>[14]</sup> According to this test, asylum seekers subject to offshore processing who are found to be refugees will wait for

resettlement for the amount of time they would have waited had they applied through 'regional arrangements'. The Government has stipulated that regional benchmarks for resettlement through UNHCR processes will be used to determine an appropriate 'waiting time' for resettlement. This policy does not take into account the fact that resettlement through official UN channels is only available to a very small number of refugees.

When last used as a detention site, the conditions on the small island of Nauru severely impacted the mental and physical health of asylum seekers, inflicting further suffering on vulnerable people who were not breaking any laws.<sup>[15]</sup> When Manus Island was last in operation, a malaria outbreak prompted the Royal Australasian College of Physicians (RACP) to call for an immediate evacuation of all asylum seekers from the island, citing particular concern for pregnant women and children, neither of whom are able to take most malaria prophylaxis. Children, also, should not be exposed to repeated applications of DEET, the most common basis of anti-malarial aerosols used in the region, as there is evidence it can – even in small concentrations – lead to staggers, agitation, tremors, slurred speech, convulsions and even death.<sup>[16]</sup> The use of tents and other dilapidated buildings to house asylum seekers are wholly inadequate as they are extremely difficult to effectively seal against mosquito infestations.

Both Manus Island and Nauru were inspected by military and governmental officials over in late 2012. The dilapidated state of the infrastructure on both sites includes unusable demountable buildings with broken windows and holes in the walls and ceilings, inoperative ablution facilities, termite infestations, and a lack of secure freshwater sources on Nauru. In February 2013, the UNHCR released a scathing report of conditions at the detention centre on Manus Island and called for its immediate closure.<sup>[17]</sup>

### ***A global approach***

Refugee flows are driven by conflict and persecution and people will continue to seek protection when they are in danger. In order to find durable solutions, it is vitally important that Australia work co-operatively in our region, and in source countries, on peacemaking and post conflict reconciliation processes. Australia should continue to work with our neighbours to improve protections and conditions for asylum seekers and refugees across the region. Efforts that result in the protection of human rights, freedom from detention and a sense of security and stability during status determination will make it less likely that refugees and asylum seekers embark on journeys to Australia.

By providing direct aid and assistance to countries with large populations of refugees and internally displaced people, Australia can simultaneously help to alleviate suffering and work to reduce the risk of refugees undertaking dangerous journeys or engaging the services of unscrupulous 'people smugglers'. As well as one-off humanitarian aid for crisis situations, our aid program would be improved by an increased focus on building local capacity through the support of projects and initiatives to resolve conflict through non-violent means in areas of crisis. Australia's contributions to peacebuilding, health, education and poverty alleviation programs, and to programs which assist with the reintegration, voluntary repatriation, and resettlement for refugees and displaced people can be a strong part of our response to the challenge of asylum seekers.

### ***Shifting the rhetoric***

We look for strong and ethical leadership from our politicians that focuses our attention on how we can help people fleeing persecution, rather than labelling their attempts to seek Australia's protection a failure of border security policy.

Asylum seekers who enter Australian territory by boat continually engender tremendous prejudice in the Australian community, despite the fact that these asylum seekers have not broken any laws. Research indicates that political rhetoric and inaccurate media representations continue to generate unfavourable community sentiments concerning asylum seekers.<sup>[18]</sup> The past decade in particular has seen a rise in the pejorative dialogue between government, the media and the public when it comes to asylum seekers and refugees. We are told of 'waves' and 'floods' of boat arrivals, and are constantly reminded of the threat these individuals pose to the 'Australian way of life'. Most recently, we had politicians calling for asylum seekers living in the community to be subject to special 'behaviour protocols' and that their movements should be monitored by police. What we have seen over this last decade is a persistent – and baseless – climate of fear, that has been used to introduce some of the most draconian policies against refugees and asylum seekers in the world.

## **ASYUM SEEKERS, REFUGEES AND THE UNITING CHURCH**

The Church is called to be a place of welcome. As faithful disciples we are to provide care and comfort to those who come to this land as strangers, seeking safety. Christians are called to act with compassion, grace and generosity, and all that we do must be a reflection of God's love for the world.

For these reasons, Uniting Church ministers, members, agencies and employees have a strong history of service caring for asylum seekers and refugees in immigration detention and in the community. Ministers, chaplains and many lay people have provided solace and comfort by their regular and committed visitation to all immigration detention centres. We have also been passionate advocates, speaking in the public forum to highlight the plight of asylum seekers and refugees and calling for policies which uphold Australia's obligations under international law and which extend appropriate care and compassion to those who call on us to offer protection.

In 2000, the Ninth Assembly of the Uniting Church resolution, Welcome the Stranger commended and celebrated the work of those within the Uniting Church and wider community who support asylum seekers and refugees settle into the community. The church committed to ongoing support for resettlement, promoting cultural sensitivity, and awareness of racism and discrimination used to instil fear against refugees and asylum seekers.

In 2002, the National Assembly Standing Committee of the Uniting Church in Australia adopted the Church's Asylum Seeker and Refugee Policy, which outlines the principles we believe must underpin Australia's response to asylum seekers and refugees, including:

- The human rights of all people must be upheld at all times.
- Australia's policies and legislation should reflect a commitment to the rights and safety of asylum seekers and refugees and should clearly distinguish these from issues of border protection and security, and from attempts to deal with people smuggling.
- We must use appropriate and sensitive language when we describe and discuss refugees and asylum seekers.
- Australia's policies and legislation should refer particularly to the rights and needs of child asylum seekers and refugees.
- Australia must take a truly global approach to refugees, asylum seekers, and displaced persons.
- This statement informs the continuing work of the Uniting Church in advocating for humane and just immigration policies which uphold the basic human rights of asylum seekers and refugees and treat them with respect.

## WANT TO KNOW MORE?

UnitingJustice Australia advocates and educates on issues relating to asylum seekers and refugees. A range of resources including Assembly statements and resolutions and theological reflections are available on the UnitingJustice website: <http://www.unitingjustice.org.au/issues/refugees-asylum-seekers.html> (/issues/refugees-asylum-seekers.html)

UnitingJustice have prepared an educational resource Justice for Asylum Seekers. The resource also contains worship resources that were prepared by the Assembly Working Group on Worship. The booklet is available from the available from UnitingJustice Australia by phone: 02 8267 4236 or email: [unitingjustice@nat.uca.org.au](mailto:unitingjustice@nat.uca.org.au) (<mailto:unitingjustice@nat.uca.org.au>)

Welcoming the Stranger is a pamphlet about asylum seekers in Australia which includes information about the Uniting Church response to current policies and ideas for action. The pamphlet, along with copies of the Asylum Seeker and Refugee Policy booklet are available from UnitingJustice Australia by phone: 02 8267 4236 or email: [unitingjustice@nat.uca.org.au](mailto:unitingjustice@nat.uca.org.au) (<mailto:unitingjustice@nat.uca.org.au>)

The UN Refugee Agency, UNHCR, leads and co-ordinates international action to protect refugees and resolve refugee problems worldwide. You can also find information about asylum seeker and refugee issues in our region at the UNHCR's Australia, New Zealand, Papua New Guinea and South Pacific regional office <http://www.unhcr.org.au> (<http://www.unhcr.org.au>)

The Refugee Council of Australia is the national umbrella body for more than 130 organisations working with and advocating for better government policy for refugees and asylum seekers. RCOA is actively involved in new research, policy development, information and representation on refugee issues <http://refugeecouncil.org.au> (<http://refugeecouncil.org.au>)

Amnesty International Australia has a substantial refugee program that focuses on domestic issues from a human rights perspective. Many resources and ideas for action are available from their website <http://www.amnesty.org.au> (<http://www.amnesty.org.au>) (<http://www.amnesty.org.au>)

The Australian Churches Refugee Taskforce is a recently established initiative to provide an ecumenical response to policies relating to asylum seekers and refugees. Its website is located at (<http://www.australianchurchesrefugeetaskforce.com.au/>)<http://www.australianchurchesrefugeetaskforce.com.au/> (<http://www.australianchurchesrefugeetaskforce.com.au/>).

***This paper was prepared by UnitingJustice Australia***

1 ([http://www.crikey.com.au/2012/07/09/essential-politicians-playing-politics-on-asylum-seekers/?wmp\\_switcher=mobile](http://www.crikey.com.au/2012/07/09/essential-politicians-playing-politics-on-asylum-seekers/?wmp_switcher=mobile))[http://www.crikey.com.au/2012/07/09/essential-politicians-playing-politics-on-asylum-seekers/?wmp\\_switcher=mobile](http://www.crikey.com.au/2012/07/09/essential-politicians-playing-politics-on-asylum-seekers/?wmp_switcher=mobile) ([http://www.crikey.com.au/2012/07/09/essential-politicians-playing-politics-on-asylum-seekers/?wmp\\_switcher=mobile](http://www.crikey.com.au/2012/07/09/essential-politicians-playing-politics-on-asylum-seekers/?wmp_switcher=mobile))

2 <http://www.un.org/News/Press/docs/2012/gashc4052.doc.htm>  
(<http://www.un.org/News/Press/docs/2012/gashc4052.doc.htm>), <http://www.euronews.com/2012/06/19/unhrc-report-shows-highest-number-of-refugees-in-15-years/> (<http://www.euronews.com/2012/06/19/unhrc-report-shows-highest-number-of-refugees-in-15-years/>), <http://www.guardian.co.uk/news/datablog/2011/jun/20/refugee-statistics-unhcr-data>  
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3 <http://www.crr.org.vt.edu/> (<http://www.crr.org.vt.edu/>)

4 <http://www.guardian.co.uk/news/datablog/2011/jun/20/refugee-statistics-unhcr-data>.

(<http://www.guardian.co.uk/news/datablog/2011/jun/20/refugee-statistics-unhcr-data>.) These figures, provided to the UNHCR by the Department of Immigration & Citizenship (DIAC), do not include asylum seekers who have arrived by boat since 13 August 2012 who have not yet entered a refugee status determination process, or been able to lodge a formal claim for protection.

5 <http://unhcr.org/asylumtrends/> (<http://unhcr.org/asylumtrends/>)

6 <http://bit.ly/RNem1J> (<http://bit.ly/RNem1J>)

7 The Government's Expert Panel on Asylum Seekers was chaired by Air Chief Marshal Angus Houston and the report and other information about the Panel's work can be found here <http://expertpanelonasylumseekers.dpmc.gov.au>  
(<http://expertpanelonasylumseekers.dpmc.gov.au>)

8 Mares, P. (2002). "Borderlines: Australia's treatment of refugees and asylum seekers," University of New South Wales Press

9 Refugee Council of Australia. (2011). "Australia's refugee and humanitarian program 2011-12: Community views on current challenges and future directions," (<http://www.refugeecouncil.org.au/r/isub/2011-12-IntakeSub-exec.pdf>)  
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10 Refugee Convention, Article 31 <http://www.unhcr.org/pages/49da0e466.html>  
(<http://www.unhcr.org/pages/49da0e466.html>)

11 See: <https://theconversation.com/theres-no-evidence-that-asylum-seeker-deterrence-policy-works-8367>  
(<https://theconversation.com/theres-no-evidence-that-asylum-seeker-deterrence-policy-works-8367>) and Richardson, R. (2010). "Sending a message? Refugees and Australia's deterrence campaign," Media International Australia, 135: 7 – 18.

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14 Houston, A., Aristotle, P. & L'Estrange, M. (2012). "Report of the Expert Panel of Asylum Seekers. Commonwealth of Australia ([http://expertpanelonasylumseekers.dpmc.gov.au/sites/default/files/report/expert\\_panel\\_on\\_asylum\\_seekers\\_full\\_report.pdf](http://expertpanelonasylumseekers.dpmc.gov.au/sites/default/files/report/expert_panel_on_asylum_seekers_full_report.pdf))"

15 Fleay, C. (2012). Repeating Despair on Nauru: The Impacts of Offshore Processing on Asylum Seekers, Curtin University, Centre for Human Rights Education.

16 See [http://www.nevdgp.org.au/info/travel/bots/min\\_mosq\\_full\\_bot.htm](http://www.nevdgp.org.au/info/travel/bots/min_mosq_full_bot.htm) ([http://www.nevdgp.org.au/info/travel/bots/min\\_mosq\\_full\\_bot.htm](http://www.nevdgp.org.au/info/travel/bots/min_mosq_full_bot.htm)) and <http://www.cdpr.ca.gov/docs/risk/rcd/deet.pdf> (<http://www.cdpr.ca.gov/docs/risk/rcd/deet.pdf>)

17 [http://unhcr.org.au/unhcr/index.php?option=com\\_content&view=article&id=284](http://unhcr.org.au/unhcr/index.php?option=com_content&view=article&id=284) ([http://unhcr.org.au/unhcr/index.php?option=com\\_content&view=article&id=284](http://unhcr.org.au/unhcr/index.php?option=com_content&view=article&id=284))

18 See: Every, D., & Augoustinos, M. (2008). "Taking advantage", or fleeing persecution? Opposing accounts of asylum seeking. *Journal of Sociolinguistics*, 12(5), 648–667 and McKay, F. H., Thomas, S. L., & Kneebone, S. (2011). 'It would be okay if they came through the proper channels': Community perceptions and attitudes toward asylum seekers in Australia. *Journal of Refugee Studies*, doi: 10.1093/jrs/fer010.

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