



Submission to Expert Panel on Asylum Seekers Refugee Action Coalition, Sydney

Introduction

This submission's starting point is the simple recognition that until now, the Australian government's attitude to the unauthorised arrival of asylum seekers by boat has been driven by so-called border protection policies rather than a concern for providing permanent protection and re-settlement – the commitments that underpin the principles of the Refugee Convention and humanitarian policy in general.

Borders should not be protected from refugees – that after all is the guiding principle of the Refugee Convention.

This wilful misrepresentation of Australia's obligation to asylum seekers has led to a situation in which both main political parties are committed to off-shore processing arrangements (in Malaysia or Nauru) that subvert the commitment to permanent protection and would inflict on-going human rights abuses on asylum seekers and refugees that Australia has pledged to protect.

Similarly, the government's reference to a "people smuggling business model" to explain the movement of asylum seekers has encouraged a hostile attitude to boat arrivals and fails to understand that it is the need for enduring protection, not a "business model", that drives asylum seekers to travel by boat to Australia.

As long as there is no other way for asylum seekers to gain enduring protection, asylum seekers will have to use boats to get to Australia. However, the politics of deterrence that informs the policies of successive Labor and Coalition governments and has informed the Department of Immigration have had a detrimental effect on political debate in Australia and have also fanned the flames of xenophobia.

Proposals for a "regional solution" mostly focus on plans for burden sharing with poorer neighbours in South East Asia. By contrast we recognise that Australia is the only country in the region that has the wealth, the resources and capacity to provide security and enduring protection for refugees.

Unless there are alternative routes to permanent resettlement in Australia, asylum seekers will have no option but to take boats from Indonesia to Australia. However, while Australia uses Indonesia to punitively warehouse asylum seekers, effectively creating a camp in Indonesia – successive governments have refused to systemically resettle refugees from Indonesia.

Between 2001 and 2009 Australia accepted just 532 people – an average of less than 60 a year.¹ In the financial year 2010-11, as part of a deal with Indonesia the government accepted about 500 people. However, just 97 people were accepted between July 1, 2011 and April 30, 2012.²

Therefore we propose as a central recommendation that Australia establishes properly resourced arrangements for the timely processing of asylum seekers in Indonesia and the guaranteed resettlement in Australia of those found to be refugees.

However, we also recognise that regardless of alternative measures put in place, there are circumstances in which asylum boats will continue to need to travel to Australia. For example boats also travel from Sri Lanka directly to Australia. Therefore policy must focus on providing safe passage – both authorised and unauthorised – for asylum seekers and refugees travelling to Australia.

It is clear that the measures we outline would cost far less than the present system where Australia pays for the costs of imprisoning asylum seekers and refugees in Indonesia, anti-people smuggling and "border protection" measures as well as the costs of mandatory detention and offshore processing. Most importantly they would come at far less cost to the lives and welfare of asylum seekers. The money saved from ending mandatory detention, which will cost almost \$1.1 billion in 2012-13³ and the unnecessary border policing measures, costing another \$1.2 billion,⁴ could be used to fund humanitarian policies.

Immediate recommendations

- (i) As an initial measure, to bring all UNHCR mandated and registered refugees from Indonesia to Australia, which included 1180 people with refugee status and another 4552 registered with the UNHCR at the end of May⁵;
- (ii) for Australia to take responsibility for all distress calls from asylum boats and for rescue operations in safety of life at sea (SOLAS) situations, including those that occur in Indonesian waters.
- (iii) to increase Australia's annual refugee intake to at least 25,000 – a move which would only bring Australia back to the proportional intakes of the early 1990s, before the Howard government came to power in 1996.
- (iv) de-link the offshore refugee intake from the special humanitarian quota. The result of this is that in years where more refugees arrive by boat there are less places under the special humanitarian program. The deliberate

¹ Elibritt Karlsen, "Refugee resettlement to Australia: what are the facts?" *Parliamentary Library Background Note*, December 6, 2011

² Senate Legal and Constitutional Committee Estimates Hearings May 21, 2012

³ Refugee Council of Australia, "2012-13 Federal budget in brief" p2
<http://www.refugeecouncil.org.au/r/bud/2012-13-Budget.pdf>

⁴ *Ibid.*, p3

⁵ See <http://www.unhcr.org/en/who-we-help/refugees> and <http://www.unhcr.org/en/who-we-help/asylum-seeker>

linking of these two programs was introduced by the Howard government as a punitive measure directed against refugee and migrant communities. No other country in the world has such a punitive measure. There are now strong indications that the relatives of refugees living in Australia are being forced to travel by boat because government policy has cut off other avenues of family reunion. This policy in the present circumstances risks repeating the same pressure caused by Temporary Protection Visas (TPVs) that prevented family reunion that created the tragedy of the SIEV X, costing the lives of 353 people, mostly women and children;

- (v) Decriminalise people smuggling in both Indonesia and Australia. People smuggling laws and Australia's policies encourage the indefinite detention of asylum seekers in Indonesia, forcing asylum seekers onto boats in the worst of circumstances. The Australian Federal Police's focus on people smuggling disruption operations means that the AFP do not act on safety issues, and are known to have withheld SOLAS information from maritime authorities;
- (vi) An inquiry into the failure of Australian rescue authorities and others to appropriately respond to the distress calls from the asylum boat on June 21 this year that resulted in at least 90 people losing their lives. There are indications that the border protection and deterrence mandates of Australian agencies are responsible for the failure of authorities to properly respond to SOLAS situations.

Further measures towards safe passage and permanent protection

- (i) End mandatory detention and ensure that all boat arrivals in Australia are welcomed and are properly and speedily processed on bridging visas which allow them to live, work and study, access Medicare, Centrelink, etc, in the community
- (ii) Implement measures to ensure the safest possible passage of boats to Australia. This could include a system of notification of asylum boat departures and the possible provision of escort arrangements by appropriately equipped Australian government supported ships.
- (iii) establish sufficiently-resourced asylum seeker community processing in Indonesia and guarantee resettlement of those found to be refugees in Australia; times for processing and determination to be no longer than would apply in Australia. At present there is no quota on the processing of boat arrivals. An increased official refugee intake must not be used to administratively exclude resettling refugees from Indonesia.