

Open Statement on Asylum Seekers

In recent history, but especially since the Tampa incident in 2001, political leaders from the major parties have been unable or unwilling to compromise and craft a reasonable and realistic migration policy that takes into account regularly occurring flows of refugees from conflict areas. Politicians in Canberra have instead chosen to play to baser instincts rather than Australians' better nature, marginalising vulnerable asylum seekers by catering to those on the extreme margins of politics.

The recent High Court decision, requiring current and future Australian Governments to meet basic human rights obligations in its treatment of asylum seekers, is more than simply a political obstacle to be overcome. It provides a unique opportunity to do what should always have been done - that is, process asylum seekers on-shore irrespective of whether they come by boat or by plane. This would serve to re-implement tested practical and effective solutions regarding the treatment and processing of refugees - an endeavour that would truly be in the "national interest".

With both parties wrangling to score political points, the issue can be seen as intractable. However recent history offers clear guidance as to the compassion and creativity of the Australian people - and our political system - when our nation was forced to choose between treating refugees humanely or contributing to a humanitarian crisis of epic proportions.

As the Vietnam War came to a chaotic end, Australia faced the prospect of a huge influx of refugees from the conflict. Fears for the well-being of asylum seekers, as well as concerns about whether Australia could successfully deal with such an influx, were well founded. A balance was struck however, and a humane and effective bi-partisan solution was put in place. Both Government and Opposition rose above party affiliation to act in the face of initially negative opinion polls.

Australia's elected leaders created a system that worked with regional partners, ensured basic human rights protections and created an efficient and effective system which, over 20 years, dealt with the needs of more than 2.5 million Indochinese refugees. The system initiated by the Fraser Government ultimately resulted in some 250,000 Vietnamese refugees and immigrants being taken in. Many of these people were fleeing a war in which Australia was a combatant. We had a moral responsibility to assist them, and we did.

The numbers were far greater than the small number arriving by boat today. The current debate all but ignores the fact that three times more asylum seekers arrive by plane than boat and are successfully processed onshore often while living within (and contributing to) their new communities. Onshore processing, assisted by regional cooperation, was the right thing to do then, and remains so today.

A Vietnamese refugee on one of the first boats to arrive in Darwin Harbour went on to become Lieutenant Governor of South Australia. Thousands of others have become magnificent Australian citizens over the past three decades.

By not simply subscribing to the idea but also implementing policies that reflect a “fair go,” Governments truly act in the “national interest” – being responsible global citizens, while making the Australian experience richer through refugees’ contributions to local communities and our country in countless ways.

The Prime Minister and Opposition Leader have a similar opportunity to do the right thing now, to exhibit the kind of moral leadership that’s too often bypassed in the political process, yet which is precisely what the Australian people and those seeking to become Australians expect and deserve. Rather than seeking creative ways to remove the assumptions of natural law and review by the courts, and watering down human rights protections, our leaders can and should focus on real solutions:

- First and foremost, institute a system for effective and efficient on-shore processing. Those arriving by boat and seeking asylum do nothing illegal under Australian law. It is the off-shore processing regime proposed by the Government that has been found to be illegal by the High Court.
- Honour the commitment to accepting an additional 4,000 refugees - the only salvageable element of the Malaysian agreement - while permanently expanding the current intake of UNHCR-designated refugees up to 25,000 - a reasonable and manageable number that will go a long way in removing the incentive for individuals to take the desperate and dangerous ocean journey to Australia.
- End the linking of on-shore asylum seekers with the off-shore refugee and humanitarian intake. This linkage was a relatively recent creation of the Howard Government and needs to be removed. Both those who seek resettlement off-shore and those seeking asylum on-shore should never have to compete. We should unravel the two categories immediately, returning to a policy whereby those who come from off-shore as refugees do not lessen Australia’s commitment or capacity to accept individuals escaping humanitarian crises who arrive in this country seeking asylum.
- Put considerably more effort into developing cooperation with regional partners to ensure greater protections for asylum seekers, while status determinations take place.
- Seize the opportunity to exhibit leadership, not just at home, but also on the world stage, where implementing the aforementioned measures would serve as an incentive and example for members of the UNHCR Working Group on Resettlement, which Australia currently chairs.

This would be in sharp contrast to recent actions which have brought widespread global consternation and condemnation. Make no mistake - the world is watching. The current debate is doing tremendous damage to our international reputation. By exhibiting courage and compassion, Australia has a chance to not only salvage our reputation but set an example for our friends and allies around the world.

In short, we need an orderly migration and integration system for refugees, while realising the reality and gravity of international obligations and domestic law. It was done before when the numbers were much, much larger. It can be done again.

Political leaders who truly want to be on the right side of history must also exhibit true leadership. We urge the Prime Minister and Opposition Leader to put aside their political differences and work towards tried, tested and effective solutions. It's the right thing to do for refugees and asylum seekers, and it is in the true national interest of all Australians.

Individual Signatories:

- **Dr Ian Anderson AM**, Founding Chair, A Just Australia (Australians for Just Refugee Programs).
- **Andrew Bartlett**, Research Fellow in Migration Law, ANU; former Senator (QLD).
- **Prof Richard Broinowski**, Adjunct Professor, Media & Communications, USyd; former diplomat.
- **Prof Mary Crock**, Professor of Public Law & Associate Dean of Law, USyd; Accredited Specialist in Immigration Law.
- **Hon John Dowd AO QC**, Chancellor, SCU; Vice-President, International Commission of Jurists (ICJ); President, ICJ-Australia; President, Action-Aid Australia; former NSW Attorney-General; former Justice of NSW Supreme Court.
- **Hon Elizabeth Evatt AC**, first Chief Judge, Family Court of Australia; former President, Australian Law Reform Commission; former member, UN Human Rights Committee; former Commissioner, International Commission of Jurists.
- **Rt Hon Malcolm Fraser AC CH**, former Prime-Minister of Australia; founder CARE-Australia.
- **Phil Glendenning**, Director, Edmund Rice Centre
- **Prof Patrick Keyzer**, Director, Centre for Law, Governance and Public Policy, Bond University.
- **Prof Ian Lowe AO**, Emeritus Professor, Griffith University.
- **Phil Lynch**, Executive Director, Human Rights Law Centre.
- **Prof Ron McCallum AO**, 2011 Senior Australian of the Year; Chairperson, UN Committee on Rights of Persons with Disabilities; Professor of Law & former Dean of Law, USyd;
- **Br Julian McDonald AO cfc**, former Chancellor, ACU.
- **Prof Patrick McGorry AO**, 2010 Australian of the Year, Executive Director of Orygen Youth Health; Professor of Youth Mental Health, UniMelb.
- **Hon Ian Macphie AO**, former Minister for Immigration and Ethnic Affairs (in the Fraser Government, 1979-82).
- **Prof William Maley AM**, Foundation Director, Asia-Pacific College of Diplomacy, ANU; Barrister.
- **Prof Louise Newman AM**, Professor of Developmental Psychiatry, Monash; Director, Centre for Developmental Psychiatry and Psychology, Monash University; Convener, Alliance of Health Professionals for Asylum Seekers.
- **Simon Sheikh**, Director, GetUp!.
- **Prof Spencer Zifcak**, Allan Myers Professor of Law, Director, Institute of Legal Studies, ACU.

Institutional Signatories:

- **Act for Peace - National Council of Churches in Australia**, Executive Director, Alistair Gee.
- **Asylum Seekers Centre of NSW**, Chairperson, Garry Rothwell.
- **Asylum Seekers Christmas Island (ASCI)**, Director, Michelle Dimasi.
- **Australian Catholic Social Justice Council**, Chairperson, Bishop Chris Saunders.
- **Australian Council for International Development (ACFID)**, Executive Director, Marc Purcell.
- **Liberty Victoria**, President, Spencer Zifcak.
- **Medical Association for Prevention of War, Australia**, President, Dr Jenny Grounds.
- **Refugee Council of Australia**, Chief Executive Officer, Paul Power.
- **Uniting Church in Australia**, President, Rev. Alistair Macrae.