

In the spirit of the Parliament and Senate's expressed wish to act to save lives and prevent further deaths at sea as a first priority, the Asylum Seeker Resource Centre (ASRC) outlines this emergency plan of action offering an alternative to asylum seekers risking their lives in dangerous boat journeys to Australia. These plans are written in the spirit of Australia's signed commitment to the 1951 Convention Relating to the Status of Refugees and the Related 1967 Protocol (Refugee Convention) and acknowledging that it is both impossible and impractical to hermetically seal our borders. Australia as an island continent has more control than most but human determination to seek survival will render complete control unachievable. These plans acknowledge the right of people fleeing war, genocide or the threat of imprisonment because of political or religious beliefs, to seek protection.

Measures to save lives

1. Immediately resettle two groups of refugees from the region as an emergency measure. This includes one thousand refugees of the twelve hundred people in Indonesia who have been assessed and approved as refugees and who are currently waiting for resettlement. The second group are to include four thousand assessed and approved refugees from Malaysia, and must include those who are stateless. On July 4th, 2012 Senator Hanson-Young met with asylum seekers and refugees in Jakarta and Cisarua, and visited immigration detention centres and prisons. She heard first-hand from families who said they would resort to boarding a boat to Australia because they do not have any other choice. The International Organization for Migration (IOM) has told her that a spike in resettlements in the past has helped to discourage asylum seekers from trying to reach Australia by boatⁱ. Increasing resettlement places provides people with a safe alternative to a boat journey.
2. Increase Australia's annual refugee intake to 25,000 with a substantial number of this increase to come from our region including Indonesia. From 2001- 2009 Australia resettled 452 people from Indonesia, an average of 50 per year. Australia has committed to 300 people this year but so far has only resettled 61 peopleⁱⁱ. These numbers do not reflect a commitment to Regional Co-operation and do not reduce the incentive for people to get on a boat. *"Most of them have the principle of "Do or Die". They say "we have taking the risk and reach here; it will be the same risk that we take to continue our journey until we reach there"ⁱⁱⁱ.*
3. Increase funding to the UNHCR in Indonesia and our regional neighbours. This funding needs to be monitored and its use tied to the protection of the human rights of asylum seekers in the region so that their claims are processed fairly and within a reasonable time frame.
4. We recommend immediate negotiation with Indonesia to codify and regularise the search and rescue response of both Indonesia and Australia in order to save lives. The current situation placing Indonesia as responsible for the area extending 230 nautical miles from the Indonesian coastline to the 12 nautical mile limit surrounding Christmas Island and Cocos Island has failed. If we want to save lives at sea we must immediately put more resources into maritime rescue operations. These must include boats, not only communication facilities. We recommend that the bulk of these resources needed come from Australia because we are the more affluent country.
5. Delink the offshore resettlement of refugees/ humanitarian entrants (family reunion) and the recognition of asylum seekers onshore. There is evidence that increasingly family reunion is being attempted by boat because of the current 23 year wait.

These five actions will have an **immediate effect** in saving lives through strategic action as well as by sending a message to refugees and asylum seekers that dangerous boat journeys are no longer necessary and that resettlement can be achieved by waiting.

"Thank you I hope he will be alive. I will come very soon. I have no other choice." Text message from Indonesia from a man whose friend was missing from a boat in June 2012.

Measures likely to put lives at risk

1. Offshore processing as defined by the government and opposition is not a deterrent. We reject both the Malaysian and Nauruan plans on the basis that they fail the safety test. Both require people seeking asylum to place their lives at risk by boarding dangerous boats in order to trigger rescue and removal to an offshore place. This solution is morally repugnant as it is predicated on risk of deaths in order to be enacted as a deterrent.
2. We reject the Nauru and Malaysia plans because they breach the human rights of people seeking asylum and will not work. The previous government succeeded in forcing 30% of people to return to Afghanistan by telling them that they would never get to Australia and would remain in the camps on Nauru forever. This proved untrue as 70% of the people were resettled in Australia and New Zealand with a handful to other countries. This is now widely known. People seeking asylum will still put their lives at risk to get there as a stepping stone to resettlement in Australia. We know from past experience that they may lose not only their lives en route, but also their mental and physical health while in detention on Nauru. Andrew Metcalfe, Secretary of the Department of Immigration, holds firmly to the view that Nauru itself was ineffective and should not be reintroduced to process asylum seekers ^{iv}.
3. We reject Malaysia on the grounds that the High Court of Australia found this to be illegal and that it requires 800 people to put their lives at risk in order that they be transported to Malaysia after they have arrived in Australia and then dumped for the rest of their lives behind 90,000 others. The issue of excluding unaccompanied minors complicates this brutal policy still further. If minors are excepted, boatloads of teenagers could be a consequence of this flawed policy. We are mindful of the conditions in Malaysia where 6000 asylum seekers are caned annually as highlighted by Amnesty International^v.
4. We reject the plan to interdict and return boats on the basis that this policy is likely to cause deaths at sea and is a violation of both the Safety of Life at Sea Convention (SOLAS) and Refugee Convention. Andrew Metcalfe, Secretary of the Department of Immigration has said, "I do not believe that tow-backs are operationally feasible... Indonesia has indicated at, I think, senior government official's level that it would not regard tow-backs as being an act of a friendly neighbour."^{vi}

Chief of the Navy, Admiral Ray Griggs, who has been in charge of several tow-backs in the past, concurs with Metcalfe. So too does the Australian Customs and Border Protection Service whose advice to the government is that turning back asylum seeker boats is "illegal, costly and would expose Australian naval personnel to harm."^{vii}

There was documented loss of life when the Navy was ordered to return boats under the Howard government. To repeat this places in jeopardy the foremost stated principle of saving lives. Indonesian Foreign Minister, Marty Natalegawa, dismissed the Opposition's policy of towing back asylum seeker boats as "impossible and not advisable even".^{viii} Former Australian Defence Force chief retired admiral Chris Barrie said it would be close to impossible as well as expensive to send all the boats back.

Longer term measures to save lives

1. Australia must pursue a regional refugee protection framework underpinned by the Refugee Convention. The emergency action plan outlined in steps 1 and 2, will demonstrate to our neighbours that Australia is prepared to commit meaningfully to a real engagement with refugee protection in the region and that Australia does not view the region as a dumping ground. Co-operative action and dialogue is essential to long term solutions.
2. Australia must use its good offices at an international level to encourage real commitment to the Refugee convention and the provision of a safety net for asylum seekers who seek protection. The Refugee Council of Australia (RCOA) recommends that Australia support reforms in these countries including the granting of legal status to refugees and asylum seekers, affording right of stay, protection against arrest, detention and deportation, permission to work.
3. Establish a formal multi-party parliamentary committee to discuss refugee and asylum seeker issues in a cooperative dialogue and to find an acceptable and humane way forward which begins the process of de-politicisation of the issue. Engage in leadership to the Australian community and media demonstrating that the days of refugees and asylum seekers as a political football are over. Australia must recognise that asylum seekers and refugees are an inevitable part of a world where war and oppression exist. In such a global environment, there are no final 'solutions', only effective and ineffective methods of managing what is an ongoing problem. After having been militarily involved in Afghanistan for over 10 years, Australia has an obligation beyond funding war to investing in peace and stability to remove the need for people to flee.
4. Increase funding to the UNHCR and our regional neighbours to build their capacity to ensure that human rights protection is provided to asylum seekers. Current Australian expenditure in Indonesia is directed to detention centres and punitive deterrent measures which have clearly failed. For example, in 2009, Australia funded the \$8 million refurbishment of the Tanjung Pinang detention centre, where Australian trained guards have previously used electric weapons, tasers and stun guns on asylum seekers.^{ix} This money could be redirected to fund the UNHCR in Indonesia.
5. Funding for these options could be found through community processing in Australia which is an existing, workable alternative to processing asylum seekers in detention centres. It currently costs the Government an estimated \$140-\$850 per asylum seeker, per night in a detention centre. Community processing at \$215 a week is more humane and more cost effective^x. In fact, the majority of asylum seekers who arrive in Australia today are permitted to live freely in the community while their claims are assessed. Those who claim asylum after entering the country on a valid visa, such as a tourist or student/work visa, are not taken into detention. They are provided with bridging visas after their existing visa expires to permit them to live in the community while their claims are processed. While the existing community processing system is inadequate in many ways, with the right support services, it can easily be transformed into an ideal and more cost effective system for processing asylum seekers.

Pamela Curr and Jana Favero - Asylum Seeker Resource Centre (ASRC)
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ⁱ <http://www.abc.net.au/am/content/2012/s3540129.htm>

ⁱⁱ <http://www.asrc.org.au/media/documents/om-statistic-may-2012.pdf>

ⁱⁱⁱ Email from Indonesian NGO worker – direct feedback from on the ground in Indonesia.

^{iv} <http://www.aph.gov.au/hansard/senate/committee/s376.pdf>

^v Amnesty International, 'Malaysia: A Blow to Humanity: Torture by Judicial Caning in Malaysia,' 6 December 2010,

<http://www.amnesty.org/en/library/info/ASA28/013/2010>.

^{vi} Senate Estimates, Legal and Constitutional Affairs (13 February 2012), p. 117,

http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=legcon_cte/estimates/add_1112/index.htm.

^{vii} 'Liberal's pledge on boats slammed,' *Canberra Times*, 14 February 2012.

^{viii} <http://www.news.com.au/national/indonesian-foreign-minister-dismisses-oppositions-policy-to-turn-back-the-boats/story-e6frkvr-1226300439629>

^{ix} Linda Mottram, 'Australia probes taser claims at Indonesian asylum centre,' *ABC Radio National*, 16 June 2010,

<http://www.radioaustralia.net.au/international/radio/onairhighlights/australia-probes-taser-claims-at-indonesian-asylum-centre>.

^x <http://www.asrc.org.au/media/documents/community-placement-network-saves-minds-and-money.pdf>