

We are academics who have serious concerns about the protection of asylum seekers under the proposed legislation presented to Federal Parliament in the week prior to the winter break. The undersigned represent a substantial proportion of Australia's leading experts in refugee and asylum seeker research. The strength of our concern is indicated by this unusual cross-disciplinary alliance and our wish to express our views.

The two major political parties claim that the most effective solution is to 'stop the boats'. However, stopping boats of asylum seekers reaching Australia (if that is even possible) does nothing to address the reasons why people flee persecution in their own countries. Neither does it address the needs of asylum seekers to find a durable solution elsewhere. We argue, therefore, that none of the solutions proposed by either major political party is in fact a solution.

Reasons for our opposition are outlined below. We would prefer a different approach to this issue with a focus on protection to provide durable solutions for asylum seekers and refugees in the region. **Refugees must have viable alternatives to jumping on boats**; we outline these alternatives at the end of this letter.

Four "solutions" to the "problem" of asylum seekers arriving by boat have been suggested by the two major political parties. All of them fail to address the needs of asylum seekers and undermine Australia's obligation to implement its responsibilities under the UN Refugee Convention in good faith. Furthermore, they are unlikely to be successful.

The proposed policies and reasons for our opposition

- **Returning boats to Indonesia.** Experience with this policy under the Howard government showed how dangerous it was for both asylum seekers and Australian Navy personnel. Many lives were put at risk; for example, according to [a *Four Corners* report](#), when SIEV 7 was returned to Indonesian waters in 2001, three men disappeared, presumed drowned, while trying to swim ashore from their stricken boat. There is also the question of incompatibility of the policy with the obligation to rescue those whose lives are imperilled at sea. Furthermore, Indonesia has indicated that it will not accept the towing back of asylum seeker boats to its shores and former Defence Force chief Admiral Chris Barrie has serious reservations about the proposed policy. In short, he does not believe that it will work.
- **Temporary protection visas.** Refugees granted temporary protection visas under the Howard government were precluded from applying for family reunion. Thus, rather than deterring asylum seekers from taking boat journeys to Australia, evidence indicates that these visas encouraged many women and children to do so. For example, most of 353 asylum seekers who died in 2001 when the vessel SIEV X sank en route to Australia were women and children; many of whom had husbands or fathers on temporary protection visas in Australia. Furthermore, those of us who engage with refugees from that era have ample evidence of the mental harms done to individuals because of temporary protection visas; some persisting to the present day.
- **The Pacific Solution.** 1,231 asylum seekers were detained on Nauru under the Howard government; many for a period of years. 484 were eventually resettled in Australia and 274 were resettled in other countries, all either as refugees or on other humanitarian grounds. 473 were returned to their countries of origin, mostly to Afghanistan. Evidence suggests that many of those returned to their country of origin fled soon after they arrived as it was still unsafe for them. Some of these asylum

seekers have since returned to Australia and have now been accepted as refugees. Finally, the evidence is clear that asylum seekers (including many children) are being harmed psychologically, particularly when they spend a long time in offshore facilities.

- **The Malaysian Solution.** Refugees' human rights cannot be adequately protected through this scheme. Malaysia is not a party to the Refugee Convention and does not protect the rights of refugees in practice. For example, refugees have no guarantee that they will not be returned to their countries of origin to face further persecution. If Australia sends asylum seekers to Malaysia without first assessing their refugee claims, it may breach the core prohibitions against *refoulement* in the Refugee Convention and the Convention against Torture. It would also demonstrate a lack of good faith in the implementation of Australia's obligations under the Refugee Convention and other core human rights treaties.

We propose the following:

1. Australia should implement its UN Refugee Convention obligations in good faith by processing those asylum seekers who come to Australia and seek protection. We should not shift them to other countries. We cannot encourage other nations to respect the Convention if we blatantly disregard it ourselves. Seeking to move asylum seekers to other countries may achieve short term domestic political gain, but it will undermine Australia's efforts to develop a viable regional framework, as it reinforces regional perceptions that Australia is interested in exporting its refugee 'problem' rather than collaborating in a genuine multilateral process.
2. Australia should immediately increase its yearly humanitarian intake to 25,000 and resettle refugees from both Indonesia and Malaysia. It should consult with UNHCR to make protection available to asylum seekers who would otherwise seek their own solutions. This should include refugees already en route (that is, in Indonesia and Malaysia) as well as UNHCR priority groups in other countries.
3. Applications should be promptly assessed by the UNHCR in Indonesia and Malaysia so that refugees have viable alternatives to jumping on boats. The more people who do not need to jump on boats, the less deaths there will be at sea. The UNHCR needs to be given more funding by Australia to achieve this. Alternatively, Australia could process asylum seekers in Indonesia themselves and then transport the refugees safely to Australia.
4. Australia should bring an end to the mandatory detention policy and – after health and security checks - allow all asylum seekers to live in the community while their refugee claims are processed. This would follow the Labor Government's recent initiative of offering bridging visas and community detention to asylum seekers not considered a risk to the community. Legislation should be adopted to enshrine this policy and to ensure that detention is used as a last resort and is not of indefinite duration.
5. There should be judicial oversight in cases where long-term detention is sought. To give but one example, there are over 50 (primarily Tamil) refugees in indefinite detention who have been found to be refugees but have also been assessed to be

security risks. This is in part because of a lack of judicial oversight; these refugees are not even aware of the allegations made against them.

To conclude, we believe that any policy should preserve rather than compromise the human rights of asylum seekers - including their right to seek asylum. We need humanitarian policy responses that share responsibility rather than shift the burden.

	Professional title	Name	Affiliation
1	A/Professor	Anne Pedersen	Murdoch University
2	Dr	Caroline Fleay	Curtin University
3	Dr	Lisa Hartley	Curtin University
4	Dr	Sue Hoffman	Murdoch University
5	Professor of Human Rights	Linda Briskman	Swinburne University of Technology
6	Professor	Louise Newman	Monash University
7	Adjunct Lecturer	Jack H Smit	Edith Cowan University
8	A/Professor	Zachary Steel	University of NSW
9	Dr	Dean Lusher	Swinburne University of Technology
10	Professor	Suvendrini Perera	Curtin University
11	Ms	Lynda Smith	Griffith University
12	Lecturer	Jenny Haines	UTS KURINGAI
13	Dr	Alex Wodak	UNSW
14	Dr	Anne McNevin	RMIT University
15	Mrs	Jean John	UTS
16	Professor	John Polesel	The University of Melbourne
17	Dr	Elizabeth Crock	University of Melbourne
18	A/Professor	Philomena Murray	University of Melbourne
19	Dr	Michael Grewcock	University of New South Wales
20	Dr	Nancy Hudson-Rodd	Edith Cowan University
21	Dr	Amy Nethery	Deakin University
22	A/Professor	Joseph Pugliese	Macquarie University
23	Ms	Pam Rycroft	La Trobe University
24	Dr	Michael Dudley	University of New South Wales
25	Dr	Cheryl Waters	University of Technology Sydney
26	Miss	Carmel Hobbs	La Trobe University
27	Dr	Lucy Fiske	Curtin University
28	Ms	Alison Healy	La Trobe University
29	Dr	David Zyngier	Monash University
30	PhD Candidate	Ann Locarnini	Monash University
31	A/Professor	Verna Blewett	Central Queensland University
32	Dr	Justine Dandy	Edith Cowan University
33	Professor	Nick Haslam	University of Melbourne
34	Lecturer	Barbara Trauer	University of Melbourne
35	Dr	Fran Gale	University of Western Sydney
36	Dr	Ann Morrow	University of Melbourne

37	Professor	Jane Kenway	Monash University
38	Dr	Joel Windle	Monash University
39	Dr	Peter McInerney	University of Ballarat
40	Ms	Paghona Peggy Kerdo	La Trobe University
41	Dr	Winnifred Louis	University of Queensland
42	Dr	John Tomlinson	Queensland University of Technology
43	Ms	Kate Hill	The University of Melbourne
44	Dr	Peter McKenzie	La Trobe University
45	Emeritus Professor	Jim Ife	Curtin University
46	Dr	Justin Clemens	University of Melbourne
47	Dr	Panizza Allmark	Edith Cowan University
48	Dr	Cameron McAuliffe	University of Western Sydney
49	Dr	Tracey Ollis	Rmit University
50	Professor	Gavin Mooney	University of Sydney
51	Mr	Adam Fletcher	Monash University
52	A/Lecturer	Azadeh Dastyari	Monash University
53	Emerita Professor	Chilla Bulbeck	University of Adelaide and University of Western Australia
54	Dr	Phil Connors	Deakin University
55	Ms	Fiona McIlwaine	LaTrobe University
56	Professor	Sarah Joseph	Monash University
57	Adjunct Professor	Brian Griffiths	Curtin University
58	Professor	Craig McGarty	Murdoch University
59	Dr	Susie Costello	RMIT University
60	Professor	Kevin Dunn	University of Western Sydney
61	Dr	Debra Keenahan	University of Western Sydney
62	A/ Professor	Debbie Horsfall	University of Western Sydney
63	Dr	Mary Hanrahan	RMIT University
64	Ms	Rose Kennedy	Melbourne University
65	A/Lecturer	Kirrily Manning	Curtin University
66	Dr	Antonia Hendrick	Curtin University
67	Ms	Tina Fernandes	Curtin University
68	Ms	Kirsty Oehlers	Curtin University
69	Ms	Robyn Martin	Curtin University
70	Ms	Anny Mokotow	University of Melbourne
71	Dr	Jennifer Ridden	La Trobe University
72	Dr	Olga Bursian	Monash University
73	Ms	Nerissa Albon	Monash University
74	Mrs	Emma Lawrence	Curtin University
75	Dr	Meighen Katz	Monash University
76	Dr	Helen M Hill	Victoria University
77	Ms	Geraldine Katz	RMIT (Retired)
78	Ms	Diane Gosden	UNSW
79	Dr	Debra Manning	Monash University
80	Ms	Dianne Ashworth	Deakin University

81	Professor	Wendy Bacon	UTS
82	Ms	Elizabeth Greenhalgh	University of New England
83	Professor	Chris Nash	Monash University
84	Ms	Norah Hosken	Deakin University
85	Dr	Chris Laming	Monash University
86	Dr	Belinda Morrissey	Monash University
87	Ms	Bonita Mason	Curtin University
88	Professor Emeritus of Political Science	John Power	University of Melbourne
89	Ms	Dona Cayetana	University of Melbourne
90	Dr	Kristen Davis	University of Queensland
91	Dr	Angela Ebert	Murdoch University
92	A/Professor	Judith Keene	University of Sydney
93	Ms	Athena Lathouras	University of the Sunshine Coast
94	Doctoral Candidate	Marco Cuevas- Hewitt	University of Western Australia
95	Ms	Jessica Morrison	Victoria University
96	Dr	Emma Thomas	Murdoch University
97	Lecturer	Jenna Price	University of Technology Sydney
98	Dr	Maria Giannacopoulos	Flinders University
99	Dr	Antonio J Traverso	Curtin University
100	Dr	John Howard	UNSW
101	Ms	Brigitte Bouhours	Australian National University
102	Mr	John Beaton	Curtin University
103	Adjunct Professor	Tasman George Parsons	Macquarie University
104	Dr	Julienne van Loon	Curtin University
105	Dr	Sally Kelty	University of Tasmania
106	Dr	Julianne East	La Trobe University
107	Dr	Natalia Hanley	University of Melbourne
108	Dr	Rob Townsend	Victoria University
109		Ross Harvey	Griffith University
110		Ursula Genaehr	Mainz Gutenberg University
111	Dr	Matthew Ball	Queensland University of Technology
112	Professor	Diana Eades	University of New England
113		Lesley Carnus	University of Sydney
114	Mr	Liam Greal	University of Sydney
115	PhD Candidate	Jessica Porter	University of Western Australia
116	Dr	Brett Baker	University of Melbourne
117	Professor	Ingrid Piller	Macquarie University
118	Dr	Stuart Rosewarne	The University of Sydney
119	Dr	Paul Gruba	University of Melbourne
120	PhD Candidate	Denise Phillips	University of New England
121	Dr	Paul Stanhope	University of Sydney
122	Lecturer	Kimie Takahashi	Assumption University, Thailand

123	Ms	Diana Johns	RMIT University
124	Professor	Dick Bryan	Sydney University
125	Dr	Gavin Smith	The Australian National University
126	Dr	Jo Dillon	University of Tasmania
127	Dr	Chris Caines	University of Technology, Sydney
128	Dr	Angela Romano	Queensland University of Technology
129	A/Professor	James Goodman	UTS
130	Professor	Maurizio Marinelli	UTS
131	Ms	Tinonee Pym	The University of Melbourne
132	Dr	Pat Horan	Retired from La Trobe University
133	Mr	Geoff Holland	University of Technology, Sydney
134	Professor	Scott Poynting	Adjunct, QUT
135	Dr	Ridwan Wahid	International Islamic University Malaysia
136	Dr	Barbara Kelly	University of Melbourne
137	Ms	Vera Williams Tetteh	Macquarie University
138	A/Professor	Sue Bailey	University of Western Australia
139	A/Professor	Heather Strang	Australian National University
140	Professor	Gillian Wigglesworth	University of Melbourne
141	Dr	Lorana Bartels	University of Canberra
142	Dr	Leanne Weber	Monash University
143	A/Lecturer	Karryn Bratby	University of the Sunshine Coast
144	A/Professor	David Hollinsworth	University of the Sunshine Coast
145		Jane Fynes-Clinton	University of the Sunshine Coast
146	Dr	Diane Solomon Westerhuis	Charles Sturt University
147	A/Professor	Phil Andrews	Monash University
148	Dr	Christina Ho	University of Technology, Sydney
149	A/Lecturer	Susan Jerie	La Trobe University, Shepparton
150		Sandra Symons	University of Technology, Sydney
151	Dr	Andrew Piper	University of New England
152	Dr	Mary Jo Fortuna	La Trobe University
153	Dr	Tanja Dreher	University of Wollongong
154	Dr	Nicole Oke	Victoria University
155	A/Lecturer	Iris Ambrose	LaTrobe University
156	Dr	Goldie Osuri	Macquarie University
157	Professor	Bob Pease	Deakin University
158	Dr	Nikos Thomacos	Monash University
159	Dr	Louisa Willoughby	Monash University
160	Dr	Stewart King	Monash University
161	Dr	Marcus Gray	Monash University
162	Dr	Jim Hlavac	Monash University
163	Dr	Christiane Weller	Monash University
164	Dr	Jemima Mowbray	University of Technology, Sydney
165	Ms	Deborah Blakeney	University of the Sunshine Coast
166	Dr	Susan Lee	Monash University
167	Dr	Elizabeth Eddy	University of Sunshine Coast
168	PhD candidate	Jeremy Ryder	Flinders University

169	Dr	Lesley Hardcastle	Deakin University
170	A/Lecturer	Anthea Vogl	University of Technology, Sydney
171	Dr	Tom Heenan	Monash University
172	Dr	Kristen Phillips	Curtin University
173	Professor	Paul Komesaroff	Monash University
174	Ms	Sharlene Nipperess	Deakin University
175	Ms	Suzanne Willey	Monash University
176	A/Professor	Thomas Reiner	Monash University
177	Dr	Belinda Liddell	University of New South Wales
178	Dr	Michelle Duffy	Monash University
179	Adjunct A/Professor	Amanda Gordon	University of Canberra
180	Dr	Adam McBeth	Monash University
181	Dr	Jean Mulder	University of Melbourne
182	Ms	Heather Gridley	Victoria University
183	Emeritus Professor	Graham R Davidson	Retired
184	Dr	Nathan Harris	Australian National University
185	Professor	Mary Bosworth	Monash University
186	Dr	Miriam Faine	Monash University
187		Anne Graham	Victoria University
188	Ms	Kyli Hedrick	Victoria University
189	Dr	Karl Smith	Victoria University
190	Dr	Devorah Wainer	Sydney University
191	Mr.	Muhammad Ali Khan	The Aga Khan University Pakistan
192	Mr	Marcus O'Donnell	University of Wollongong
193	A/Professor	Ana Relano	Universidad de Castilla-La Mancga (Spain)
194	Dr	Anne Sibbel	Edith Cowan University WA
195	Mr	James Meneghello	Murdoch University
196	A/ Professor	Shane Homan	Monash University
197	Ms	Rose-Anne Manns	UTS
198	Dr	Andrea Schalley	Griffith University
199	Dr	Georgina Heydon	RMIT University
200	Professor	Martha Augoustinos	University of Adelaide
201	Ms	Margot Trinder	University of Melbourne
202	Assistant Professor	Julie Posetti	University of Canberra
203	A/Professor	Shirley Morrissey	Griffith University
204	Professor	Margot Prior	University of Melbourne

13th July, 2012