

ASYLUM SEEKER RESOURCE CENTRE  
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Asylum seekers and refugees

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*myths*  
**FACTS** +  
*solutions*

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## MYTH 1 ASYLUM SEEKERS ARE ILLEGAL IMMIGRANTS

Asylum seekers are not immigrants. Immigrants leave by choice and are able to return home at any time. Asylum seekers leave and cannot return because they are forced to for fear of persecution. Additionally, the majority of asylum seekers arrive legally in Australia by plane holding a valid tourist, work or study visa.<sup>1</sup>

Yet even those asylum seekers who enter Australia without a valid visa by sea or plane are not illegal. They are permitted to enter without prior authorisation because this right is protected by Article 31 of the 1951 Refugee Convention which recognises that there is good cause for their unauthorised entry.<sup>2</sup> Like a speeding ambulance, asylum seekers are exempt from the usual application of the law because they are in an emergency situation. Consequently, no Australian law criminalises the act of arriving in Australia without a valid visa for the purposes of seeking asylum.<sup>3</sup> Detention of unauthorised asylum seekers is not evidence of criminality: detention is justified on *administrative* not punitive grounds.<sup>4</sup> In other words, asylum seekers are detained for identity, security and health checks, and to prevent them absconding while their legal status is resolved, rather than as punishment for breaking the law. Unfortunately, while justified as such, the conditions endured by asylum seekers during long-term detention have been a proven cause physical and mental anguish tantamount to punishment. This is unjustifiable, especially since it is unnecessary and counterproductive and there are viable cheaper arrangements available (see myths 15 & 16).

Imagine how it would feel for you and your family to be labelled 'illegals', 'criminals' and 'cheats' after taking extraordinary and life threatening measures to escape persecution in the hope of saving your lives. Imagine how it would feel to be told that you are unwanted and unwelcome even though you have done nothing wrong. To have that hope which sustained you for so long taken away, as the months stretch into years in detention, without the freedom you risked everything to gain.

There is nothing *wrong* in doing whatever you can to secure freedom and there is nothing *illegal* about seeking asylum.

Figure 1

	Plane Arrivals	Boat Arrivals
2008-09	84%	16%
2009-10	53%	47%
2010-11 (1ST QUARTER)	56%	44%

Source: DIAC advice provided to the Parliamentary Library

<sup>1</sup> Historically, the vast majority of asylum seekers have arrived by plane: between 96-99 percent. However, last financial year (2009-10), boat arrivals jumped significantly to make up 47% of all onshore claims. Nonetheless, plane arrivals still constitute the majority. See Janet Phillips, 'Asylum seekers and refugees: what are the facts?' Parliamentary Library of Australia, <http://www.aph.gov.au/library/pubs/bn/sp/AsylumFacts.pdf>, 14 January 2011, p. 6.

<sup>2</sup> UNHCR, Convention and Protocol Relating to the Status of Refugees, <http://www.unhcr.org/3b66c2aa10.html>, p. 31.

<sup>3</sup> Janet Phillips, 14 January 2011, p. 3.

<sup>4</sup> Andrew Metcalfe (Secretary of DIAC), Opening statement to Legal and Constitutional Committee, Supplementary Budget Estimates hearing, [http://www.immi.gov.au/about/speeches-pres/\\_pdf/2010-10-19-supplementary-estimates-opening-statement.pdf](http://www.immi.gov.au/about/speeches-pres/_pdf/2010-10-19-supplementary-estimates-opening-statement.pdf), 19 October 2010, p. 2.

## MYTH 2 ‘BOAT PEOPLE’ ARE NOT GENUINE REFUGEES

The allegation that boat arrivals are not genuine refugees is both inaccurate and no cause for alarm. It is inaccurate because, although there are many asylum seekers who are in fact not genuine refugees—between 2007 and 2010 the approval rate for asylum seekers varied between 48 and 67%—most of those rejected arrive by plane, not boat.<sup>5</sup> For obvious reasons, those who attempt the perilous journey by boat are more likely to be genuine refugees. While plane arrivals typically have only a 40% success rate, 85–90% of boat arrivals are generally granted a protection visa.<sup>6</sup>

In 2010, for example, 2877 Afghans arrived by boat (46.2% of total boat arrivals), 1120 Iranians (18%), 688 Iraqis (11%), 537 Sri Lankans (8.6%), 96 Burmese (1.6%), 61 Kuwaitis (1%), 43 Palestinians (0.7%), 31 Vietnamese (0.5%), 21 Pakistanis (0.3%) and 758 others (12.1%), making a total of 6 232 people.<sup>7</sup> All of these nationalities have high grant rates for being accepted as genuine refugees, typically 90–95%. In contrast, the grant rate for asylum seekers from China was the lowest, at 42%, all of whom arrived by plane.

In recent months, much has been made about a sharp increase in rejection rates for Afghan asylum seekers—up to 50%. However, the refugee status determination process includes a first interview with the Department of Immigration and Citizenship (DIAC) and second interview with a more independent tribunal. The 50% rejection rate refers to those initially rejected by DIAC, and they have so far only processed 700 of 6 000 Afghans. Only 50 have failed their second interview and they can still appeal to the courts.<sup>8</sup>

Furthermore, the initial high rates of rejection from DIAC have come into serious question. It has been revealed that one of the key sources used to reject Afghan asylum seekers was deeply flawed. Astonishingly, this source used by DIAC stated that ethnic Hazaras from Afghanistan were living in a ‘golden age’. This is contrary to the bulk of evidence and expert academic advice, which points to a deteriorating situation in the war-torn country.<sup>9</sup> It is not the first time DIAC has had it wrong, and combined with their susceptibility to political interference, this reinforces the importance of an independent and judicial review. The greatest concern is not that some illegitimate asylum seekers could slip through the system, but that genuine asylum seekers could be denied protection. In the past, Australia has deported genuine refugees, including children, back to dangerous situations where they have subsequently been killed.<sup>10</sup>

Finally, the numbers of unauthorised arrivals are too small to warrant alarm. At any given moment, there are approximately 50 000 tourists and temporary migrants in Australia who have overstayed their visa and are thus illegal. This raises no concern in the media or amongst the general public—and rightly so.<sup>11</sup> The same measured response should be applied to the reality of asylum seekers.

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5 Department of Immigration and Citizenship (DIAC), Annual Report 2009–2010, <http://www.immi.gov.au/about/reports/annual/2009-10/> p. 113.

6 Refugee Council of Australia (RCOA), Myths and Facts about refugees and asylum seekers, April 2010, p. 3.

7 Barry Cohen, ‘Stem refugee flow at source,’ *The Australian*, <http://www.theaustralian.com.au/news/opinion/stem-refugee-flow-at-source/story-e6frg-6zo-1225982614288>, 06 January 2011.

8 Russell Skelton, ‘How to handle the crisis that just won’t go away?’ *The Sydney Morning Herald*, <http://www.smh.com.au/national/how-to-handle-the-crisis-that-just-wont-go-away-20110210-1aojf.html>, 11 February 2011.

9 Joe Kelly, ‘Refugee groups say government advice on Hazara asylum-seekers is wrong,’ *The Australian*, 01 October 2010.

10 Edmund Rice Centre, ‘Deported to Danger’ and ‘Deported to Danger II,’ Sep 2004 and 2006 respectively, <http://www.erc.org.au/index>.

Figure 2

Country of Citizenship	2007-08 Grant Rate	2008-09 Grant Rate	2009-10 Grant Rate
Afghanistan	96.9%	98.7%	99.7%
Sri Lanka	90.8%	90.1%	87.8%
China	37.8%	31.5%	42.0%
Iraq	96.9%	96.1%	97.3%
Iran	92.5%	89.0%	98.3%
Zimbabwe	79.8%	90.3%	85.3%
Pakistan	73.6%	76.7%	84.2%
Stateless	62.5%	86.4%	98.5%
Egypt	62.7%	56.3%	71.2%
Burma	91.8%	94.0%	96.3%
Other	25.4%	26.1%	29.4%
Total	47.8%	47.6%	66.5%

Final Grant Rates: DIAC Annual Report 2009-10



## **MYTH 3** ASYLUM SEEKERS DESTROY THEIR DOCUMENTATION; THEY ARE TRYING TO CHEAT THE SYSTEM

Remembering the Refugee Convention and the Australian Government recognise that asylum seekers are not to be punished for their *illegal* entry or irregular travel because they have good cause (see myth 1). This is because asylum seekers will often have to flee quickly and are unable to obtain the necessary documentation before leaving; especially if that requires approaching the very government responsible for their persecution. At other times, asylum seekers will destroy documentation because they fear being sent back home or, for this reason, are instructed to do so by people smugglers.

However, the vast majority of asylum seekers do not arrive without documentation in an attempt to cheat the system. Not only are most boat arrivals found to be genuine—typically between 85 and 90%—but arriving without documentation only delays legal-status resolution, prolonging their stay in detention. So for a genuine asylum seeker, of which the majority of boat arrivals are, there is no incentive to arrive without documentation.

It's often argued that boat arrivals who leave from Indonesia intentionally deceive authorities by destroying their documentation because, having originally flown into the country, it's assumed they must have had a passport and visa to board the flight. However, many asylum seekers obtain false documentation in order to gain entry into Indonesia by plane and, unable to seek adequate protection there, later escape to Australia by boat. Furthermore, many asylum seekers initially land in Malaysia where people from Muslim countries are not required to obtain a visa. They then make their way to Indonesia before boarding a boat for Australia. Non-Muslims, such as asylum seekers from Sri Lanka, are forced to bribe Malaysian immigration officials in order to gain entry into the country and—if they can escape detection and incarceration by authorities—will then attempt to make the dangerous journey to Australia by boat via Indonesia.<sup>12</sup>

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<sup>12</sup> Paul Toohey, 'Kevin Rudd's U-turn on boat people,' The Daily Telegraph, <http://www.dailytelegraph.com.au/news/kevin-rudds-u-turn-on-boat-people/story-e6freuy9-1225852038152>, 10 April 2010.

## **MYTH 4 BOAT ARRIVALS MIGHT BE TERRORISTS OR POSE OTHER SECURITY RISKS**

No boat arrival who could have been a potential threat to national security has ever gained entry into Australia. The reasons are straightforward. A potential terrorist is more likely to arrive by plane because boat arrivals are subject to the most scrutinised security checks. The very act of arriving without documentation alerts authorities to undertake rigorous security checks. It is much easier and safer for a terrorist to arrive undetected in Australia by plane, either with a valid visa or false documentation. Far from cause to be afraid, it's safer for us if potential terrorists attempt to gain access to Australia by boat, as they're more likely to be caught or to drown along the way.

This is reinforced by the negligible number of adverse security assessments issued for boat arrivals. During the 2000–02 influx of asylum seeker boats, ASIO conducted 5986 security checks out of a total 7167 arrivals by sea.<sup>13</sup> They issued zero adverse assessments. In 2008–09, when boat arrivals again began to increase, ASIO conducted 207 security checks out of a total 1033 arrivals by sea and, once again, they issued zero adverse assessments.<sup>14</sup> The most recent official statistics indicate that from 1 July 2009 to 31 December 2009, ASIO conducted 988 security checks of which there was one adverse assessment relating to onshore boat arrivals.<sup>15</sup> Eleven adverse assessments were issued to asylum seekers aboard the *Oceanic Viking* in 2009 after they were intercepted and towed back to Indonesia. However, the credibility of these assessments has come into question amidst allegations that ASIO sought back-channel advice from Sri Lankan military intelligence.<sup>16</sup> Three asylum seekers have since taken formal action to challenge their negative assessments in court.<sup>17</sup>

The credibility of ASIO assessments has been brought into question on numerous occasions. Mistakes have been made in the past and there have been allegations of political interference from within the Department of Immigration itself.<sup>18</sup> In 2004, for example, ASIO was forced to pay around \$200 000 compensation to a refugee who had been locked up for two years, having been falsely classified as a national security risk. At the time, ASIO refused to release any details or say which overseas agency had provided the information used to make the assessment. It was later revealed through an internal inquiry that the agency had relied solely on information provided by the same secret police organisation—from a country with a poor human rights record—that had persecuted the asylum seeker.<sup>19</sup>

ASIO, in another case, would not disclose its reasons for giving two unauthorised arrivals adverse security assessments in August 2005. One of the assessments was later overturned after civil action was launched in the Federal Court of Australia and the other asylum seeker was resettled to Sweden, where he was presumably found not a threat to national security.<sup>20</sup> These asylum seekers had each spent five years in detention by the time they were released.

ASIO assessments are not transparent and virtually closed to scrutiny, making them susceptible to political interference. Nonetheless, whatever their credibility, the fact remains that boat arrivals are subject to the most stringent security clearance checks and thus pose the least threat of all arrivals to Australia's national security.

13 Joint Standing Committee on Migration, 'Inquiry into Immigration Detention in Australia: Report 1, Chapter 2, Criteria for release—health, identity and security checks,' <http://www.aph.gov.au/house/committee/mig/detention/report/chapter2.pdf>, 18 August 2009, p. 39.

14 Australian Security Intelligence Organisation (ASIO), Answers to questions taken on notice at an Estimates hearing on 8 February 2010, Senate Legal and Constitutional Affairs Legislation Committee, question no. 40, [http://www.aph.gov.au/senate/committee/legcon\\_ctte/estimates/add\\_0910/ag/040\\_ASIO.PDF](http://www.aph.gov.au/senate/committee/legcon_ctte/estimates/add_0910/ag/040_ASIO.PDF).

15 ASIO, 8 February 2010, question no. 40.

16 Mark Dodd, Push to accept last of Viking refugees, *The Australian*, <http://www.theaustralian.com.au/national-affairs/push-to-accept-last-of-viking-refugees/story-fn59niix-1225978241709>, 30 December 2010.

17 Yuko Narushima, Tamils challenge ASIO ruling, *The Sydney Morning Herald*, <http://www.theage.com.au/national/tamils-challenge-asio-ruling-20101001-1614e.html>, 2 October 2010.

18 Yuko Narushima, ASIO checks unreliable: former immigration officer, *The Sydney Morning Herald*, <http://www.smh.com.au/national/asio-checks-unreliable-former-immigration-officer-20100113-m71j.html>, 15 January 2010.

19 Mark Forbes, 'Refugee blunder costs ASIO,' *The Age*, <http://www.theage.com.au/articles/2004/11/09/1099781395802.html>, 10 November 2004.

20 Joint Standing Committee on Migration, 18 August 2009, p. 39–40.

## **MYTH 5** BOAT PEOPLE ARE QUEUE JUMPERS; THEY TAKE THE PLACE OF REFUGEES WHO ARE PATIENTLY WAITING IN OVERSEAS CAMPS

It is not boat people but government policy that is directly responsible for this unjust outcome. Since 1996, Australia has denied one spot from its offshore program for refugees in overseas camps for every successful onshore applicant arriving by air or sea. No other country in the world links its onshore and offshore programs in this way.<sup>21</sup> The policy could easily be changed so that Australia accepts all successful onshore applicants in addition to the number of offshore places already dedicated. This would not result in unsustainable numbers. If such a policy had been in place last financial year (2009–10), Australia would have received a maximum additional 4543 refugees. That would take the total number to 18 313 as opposed to the 13 770 actually taken. This is still well below the level what most refugee receiving countries accept and is still less than the UN recommended 20 000 places, or 0.1% of our population.

Furthermore, it is unreasonable to expect asylum seekers to wait patiently in the 'queue' given the conditions. Many asylum seekers who arrive by boat to Australia do so after escaping from Malaysia and/or Indonesia. Neither of these countries have signed the Refugee Convention, so asylum seekers there have no formal legal status—they are *actually* illegal—unlike in Australia. Consequently, they are forced to wait with no formal rights until they are resettled to a third country. Tragically, the wait is long. Due to demand far exceeding supply, UNHCR does not even begin the search for a resettlement country for proven refugees in Indonesia until after they've been there for about five years.<sup>22</sup> At the end of 2009, six refugees had been waiting in Indonesia for eight or nine years.<sup>23</sup> However, they do try to expedite the process for the vulnerable, such as women and children.

During this excruciating wait, asylum seekers may be detained and denied basic human rights such as adequate health care, the right to work and the right to education. Even worse, asylum seekers face the possibility of persecution equal to that which they originally fled. Amnesty International recently released a report, *Malaysia: Abused and abandoned: Refugees denied rights in Malaysia*, describing how refugees are 'abused, exploited, arrested . . . detained in squalid conditions, tortured and otherwise ill-treated, including by caning'.<sup>24</sup> They are also at risk of being returned to a country where they may be killed.

Less than 1% of global refugees are resettled: in 2011, governments will offer places to only 80 000 asylum seekers.<sup>25</sup> If all of the millions of refugees worldwide were to join the queue, the wait would be 135 years.<sup>26</sup> Ultimately, there is no just and orderly queue for asylum seekers.

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21 Elibritt Karlsen, Janet Phillips & Elsa Koeth, 'Seeking Asylum: Australia's humanitarian program,' Parliamentary Library of Australia, 21 January 2011, <http://www.aph.gov.au/Library/pubs/BN/sp/SeekingAsylum.pdf> p. 11.

22 Savitri Taylor & Brynna Rafferty-Brown, 'Waiting for Life to Begin: the Plight of Asylum Seekers Caught by Australia's Indonesian Solution,' *International Journal of Refugee Law*, Vol: 22, Issue: 4, 2010, p. 27.

23 Savitri Taylor & Brynna Rafferty-Brown, p. 26.

24 Amnesty International, 'Malaysia: Abused and Abandoned: Refugees Denied Rights in Malaysia,' <http://www.amnesty.org/en/library/info/ASA28/010/2010/en>, 15 June 2010.

25 UNHCR Press Release, 'UNHCR urges more countries to establish refugee resettlement programmes,' <http://www.unhcr.org/4c31cd236.html>, 5 July 2010.

26 RCOA Press Release, 'UNHCR Statistics Reveal Emptiness of Political Spin about Refugees,' [http://www.refugeecouncil.org.au/docs/releases/2010/100623\\_UNHCR\\_stats.pdf](http://www.refugeecouncil.org.au/docs/releases/2010/100623_UNHCR_stats.pdf), 23 June 2010.

1



2



3

4 & 5

## Would you wait for years in this queue?

1, 2 & 3: Kalidares Qaratina detention centre in West Jakarta, Indonesia.

1 & 2: The man is one of four asylum seekers who were severely beaten by immigration authorities at this facility in 2009.

4 & 5: Malaysian detention and a man being caned by authorities. Asylum seekers in Malaysia face up to six strokes of the cane.

Sources: Jessie Taylor Behind Australian Doors, 03 Nov 2009; ABC News, 'Malaysia not sorry for caning asylum seekers,' 11 Feb 2011

## **MYTH 6** ASYLUM SEEKERS MUST ARRIVE THROUGH THE PROPER CHANNELS, THE 'FRONT DOOR', AND BE ACCEPTED IN AN ORDERLY FASHION

Those seeking asylum onshore in Australia *are* applying via the 'front door'. By definition, you cannot be a refugee unless you are outside of your home country.<sup>27</sup> That means *all* asylum seekers *must* cross an international border to seek asylum. Applying for asylum after entering another country—rather than lining up in a 'queue' to be resettled elsewhere—is the standard way to seek asylum and is how the vast majority of the world's asylum seekers find protection. This is also the only path protected in international law. Australia is obligated by its commitments to the Refugee Convention to provide protection to those who arrive on its shores or at its airports. It is not obligated to resettle those waiting in overseas camps—that is a voluntary program undertaken by Australia because it recognises that it receives so few asylum seekers onshore and has a responsibility to share more of the international burden.

Irregular people movements are—as the term suggests—inherently disorderly. Refugees must often flee their homes abruptly or else suffer persecution. They have to go somewhere, and fast. Consequently, the vast majority of asylum seekers, some 75–95%, cross a border into a neighbouring country and stay there.<sup>28</sup> Because most asylum seekers originate from the developing world, crossing a border means entering into another developing country. Consequently, those with the least capacity to assist refugees have the burden of protecting the vast majority of them.

Most developing countries do not have the luxury of an orderly migration program for refugees. They *must* accept the millions of refugees spontaneously crossing their borders without prior authorisation, or they would be placing those asylum seekers at risk of imminent persecution or death. If all the nations of the world were to heed the call of those who insist that refugees fleeing persecution must wait in a queue for authorisation, there would be mass genocide.

As most nations are unable to force refugees to wait in overseas camps, it would be hypocritical for Australia to unilaterally end its practice of providing protection to onshore arrivals. Such a policy would not create equitable outcomes for all refugees but succeed only in transferring the costs of reception and processing back to the developing world, which is where our rejected asylum seekers will ultimately be made to wait. This would also force asylum seekers to wait for years in intolerable conditions without basic human rights. Ultimately, 'orderly migration program' is code for shifting Australia's responsibilities to developing countries which already take the greatest burden for this international problem. Australia needs to accept that, as long as there is war, poverty and political unrest, there will be irregular migration flows. Whereas, as long as asylum seekers continue to be processed by authorities upon arrival where they undergo identity, health and security checks, there is little to be concerned about.



<sup>27</sup> Article 1 of the Refugee Convention states that a refugee must be 'outside the country of his nationality.' See UNHCR, Convention and Protocol Relating to the Status of Refugees, <http://www.unhcr.org/3b66c2aa10.html>, p. 16.

<sup>28</sup> Elibritt Karlsen, Janet Phillips & Elsa Koeth, 'Seeking Asylum: Australia's humanitarian program,' Parliamentary Library of Australia, 21 January 2011, <http://www.aph.gov.au/Library/pubs/BN/sp/SeekingAsylum.pdf>, p. 5.

## **MYTH 7** ASYLUM SEEKERS ARE SECONDARY MOVERS; THEY COULD HAVE STOPPED AT SAFE PLACES ALONG THE WAY

Many of the asylum seekers who arrive onshore in Australia are not secondary movers, such as many originating from China, Sri Lanka, Myanmar (Burma), Timor Leste (East Timor) and West Papua. Nonetheless, it is true that many asylum seekers who arrive from Africa, the Middle East and South Asia travel through intermediary countries before arriving in Australia. However, there is nothing unjust or deceptive about this.

The so called 'safe places' on the way to Australia are largely not signatories to the Refugee Convention or do not have the capacity or will to deal humanely with the large numbers of refugees they receive.

Around two thirds of the world's approximately 10 million refugees remain for years in exile without basic rights or essential economic, social and psychological provisions. The average stay in such conditions is now approaching 20 years.<sup>29</sup> Many refugees in such countries continue to endure conditions equal to those they originally fled. Sexual and physical violence is common. The majority of asylum seekers who arrive in Australia by boat come through Indonesia and Malaysia, where they have no legal status and risk arrest, exploitation, torture or being returned to a country where they may be killed (see myth 5). Under such conditions, it is only natural that asylum seekers will attempt to look elsewhere for adequate protection.

Secondary movements arise primarily because the disproportionate burden of protecting refugees falls on countries least able to accommodate them. Pakistan and Iran, for example, generously opened their borders to millions of Afghan refugees after the 1979 Soviet invasion of Afghanistan. With almost no international assistance, the Iranian Government offered refugees access to free education, health services, employment and subsidies on basic amenities.<sup>30</sup>

Pakistan and Iran grew tired of dealing with the 'problem' of Afghan refugees essentially on their own, having hosted the largest refugee population in the world (around 6 million) for more than two decades with little assistance from the international community. In the 1990s they stopped recognising new refugees, denying them legal status, and resorting to mass forced returns. Refugee camps were closed and many houses destroyed.<sup>31</sup> Still hosting millions of refugees today, the financial and social strain on these developing economies has resulted in a failure to provide the most fundamental human needs to vast numbers of people. The same is true for refugees in many parts of the developing world.

UNHCR notes that since the 1990s it has experienced budget shortfalls as donor countries have become less willing to share the refugee strain taken by countries in the developing world.<sup>32</sup> Until Australia and the rest of the international community accepts a fair proportion of the refugee burden from the countries of first asylum, we have no moral grounds for refusing to accept the trickle of refugees who escape such abhorrent conditions to present themselves at our doorstep.

Figure 3

Country	Refugees Hosted (Based on wealth)	World Rank
Pakistan	1 740 711	1st
Syria	1 054 466	4th
Kenya	358, 928	5th
Chad	338, 495	6th
Iran	1 070 488	11th
Jordan	450 756	14th
Australia	22 548	77th

<sup>29</sup> Dr James Milner & Professor Gil Loescher, 'Responding to Protracted Refugee Situations: Lessons from a decade of discussion,' Refugee Studies Centre, Forced Migration Policy Briefing No: 6 January 2011, p. 3.

<sup>30</sup> Agata Bialczyk, 'Voluntary Repatriation and the Case of Afghanistan: A Critical Examination,' *Refugee Studies Centre*, Working Paper No: 46, January 2008, p. 14.

<sup>31</sup> Agata Bialczyk, p. 21-22.

<sup>32</sup> UNHCR, 'The State of the World's Refugees,' <http://www.unhcr.org/4444afcb0.html>, 19 April 2006, p. 114.

## MYTH 8 ASYLUM SEEKERS ARE ‘CASHED UP’ AND CHOOSE TO COME HERE

You can be wealthy and still be tortured. Economic status does not necessarily prevent you from needing to seek asylum. In some countries it might be more likely for authorities to target the well educated, and therefore the wealthy, because they are the greatest threat to an authoritarian regime.

Furthermore, an expensive boat or plane trip is not necessarily an indication of wealth. Most asylum seekers will sell everything they own, and/or turn to family or friends for help, to pay for the trip and still not have enough money. Many asylum seekers will not be able to afford to bring the whole family and so send only one member with the responsibility of finding an avenue of protection for the entire family. Alternatively, families at risk of persecution with only enough money to save one life may decide to make the excruciating decision to send their child away in the hope that they will make it to safety.

Imagine being a parent whose only option to save your child was to send them on a perilous journey knowing you might never see them again. Or imagine being that child, separated from your parents and siblings, constantly tormented because you’re unsure if they are safe or even alive. Far from being ‘cashed up’, asylum seekers have made great sacrifices and left everything dear to them behind.

As for asylum seekers ‘choosing’ Australia, it is important to remember that, in the first instance, asylum seekers are running *from* and not *to*. No one chooses to be an asylum seeker. Furthermore, many of the countries in our region are not signatories to the Refugee Convention, including Indonesia and Malaysia, where most boat arrivals come from. Whilst countries that are signatories do not necessarily provide effective protection either. For example, Cambodia was recently implicated in the forcible deportation of asylum seekers to China, which has not implemented the Refugee Convention into its national law (a gross contravention of international refugee law).<sup>33</sup> More importantly, Australia and New Zealand are by far the only countries in the region with the resources to provide effective protection (see table above). Would it be fair for asylum seekers to ‘choose’ to go to countries like Timor-Leste (East Timor) or Papua New Guinea which face severe developmental issues of their own?

Figure 4: Human Development Index (HDI) of signatories to the Refugee Convention in the Asia-Pacific

Country	HDI (of 169)	GNI per capita (PPP)
Australia	2	\$38,691.70
New Zealand	3	\$25,437.50
China	89	\$7258.50
The Philippines	97	\$4002.10
Timor-Leste	120	\$5303.20
Laos	122	\$2321.00
Cambodia	124	\$1867.70
Papua New Guinea	137	\$2227.10

<sup>33</sup> Refugee Council of Australia (ROCA), ‘Myths and Facts about refugees and asylum seekers,’ April 2010, p.6.

## MYTH 9 AUSTRALIA IS LOSING CONTROL OVER ITS BORDERS

No country in the world has greater control over its borders than Australia. While most countries share at least one border with another country and usually many more, Australia is an island continent with vast surrounding seas. These natural barriers make irregular migration extremely difficult. In the United States, it is estimated that there are between 7 and 20 million illegal migrants living inside the country. In the European Union, the number is between 3 and 8 million, and this is increasing by half a million every year. The UK alone has between 500 000 and 700 000 illegal migrants. The numbers are even greater in parts of the developing world. In comparison, Australia has only around 50 000 people unlawfully in the country at any one time, mostly tourists and temporary migrants who have overstayed their visa. As for asylum seekers, there were 5627 unauthorised boat arrivals in 2009–10.<sup>34</sup> Clearly, Australia is not losing control of its borders.

Furthermore, asylum seekers who arrive without authorisation do not gain entry into, or live unlawfully in, Australia, where the majority of the 50 000 who overstay their visas do. Unauthorised arrivals are stopped at the border and processed while identity, security and health checks are performed. Australian authorities remain in total control. Moreover, it is not only boat arrivals who arrive without a valid visa. Last year (2009–10) 1489 unauthorised air arrivals were taken into detention without attracting media hype or public alarm—and rightly so.<sup>35</sup> Unauthorised boat arrivals are targeted by political leaders wishing to exploit fears about losing control of our borders.

Contrary to popular opinion, Australia maintains control over the total number of asylum seekers who settle in Australia, regardless of the number of boat or plane arrivals each year. As illustrated in the table below, there is little variation between the number of places Australia has made available over the last decade and the actual number of visas granted for all onshore and offshore refugees.

The reason for this becomes clear when one understands how Australia’s refugee migration program works. The Refugee and Humanitarian Program is divided into onshore and offshore components. The offshore component includes the Refugee Program for those waiting in overseas camps and also the Special Humanitarian Program (SHP) for those who have been sponsored by an Australian citizen or permanent resident. The onshore component includes those applying after arriving in Australia by both air and sea.

Each year, Australia typically allocates 6000 fixed places for the refugee program and around 7000–7500 places for the Special Humanitarian Program and the onshore program combined. Australia’s refugee intake has remained consistent at around 13 500 refugees over the past decade as for every onshore arrival, Australia deducts one place from the SHP program.

Out of almost all of the nations on earth, Australia has the least to fear about losing control over its borders.

Figure 5

	2000–	2001–	2002–	2003–	2004–	2005–	2006–	2007–	2008–	2009–
Available places	15 134	13 645	13 223	12 891	12 389	12 339	13 000	13 000	13 500	13 750
Visas granted	13 733	12 349	12 525	13 851	13 178	14 144	13 017	13 014	13 507	13 770

Source: Department of Immigration and Citizenship (DIAC), Annual Report 2005–2006, [http://www.immi.gov.au/about/reports/annual/2005-06/\\_pdf/DIMA-annual-report-2005-06-complete.pdf](http://www.immi.gov.au/about/reports/annual/2005-06/_pdf/DIMA-annual-report-2005-06-complete.pdf), p. 107. Figures for 2006–07 onwards sourced from subsequent DIAC annual reports.

Figure 6

	2004–05	2005–06	2006–07	2007–08	2008–09	2009–10
Refugee Program (offshore)	5511	6022	6003	6004	6499	6003
SHP (offshore)	6585	6736	5313	5110	4630	3233
Air & sea arrivals (onshore)	1082	1386	1701	1900	2378	4534
TOTAL	13 178	14 144	13 017	13 014	13 507	13 770

Source: Australia’s Refugee and Humanitarian Program: 2004–05 to 2009–10. Elibritt Karlsen, Janet Phillips & Elsa Koletch, “Seeking Asylum: Australia’s humanitarian program,” Parliamentary Library of Australia, 21 January 2011, <http://www.aph.gov.au/Library/pubs/BN/sp/SeekingAsylum.pdf> p. 28.

<sup>34</sup> Department of Immigration and Citizenship (DIAC), ‘Annual Report 2009–2010,’ <http://www.immi.gov.au/about/reports/annual/2009-10/> p. 178.

<sup>35</sup> See DIAC’s Annual Report 2009–2010, p. 178.

## MYTH 10 STOPPING THE BOATS WILL SAVE LIVES

Turning back boats is not a viable option. It is not clear that the countries from which asylum seekers depart would accept returned boats. Indonesia's foreign minister, Marty Natalegawa, rebuffed calls by Tony Abbott in March 2010 for boats to be towed back stating bluntly that it would be 'a backward step'.<sup>36</sup> There are real dangers in attempting to force desperate people back into limbo where their most basic rights may not be protected. In a desperate attempt not to be returned, asylum seekers have understandably sabotaged boats in the past, resulting in a number of tragic deaths. This also places Australian naval authorities at risk. Even Australia's own Defence Department has advised the government that turning boats around would not work and would put lives in danger.<sup>37</sup>

The largest factor in driving asylum seekers to risk their lives in leaky boats to reach Australia is the inhumane conditions they are forced to endure while waiting in countries such as Malaysia and Indonesia (see myth 5) —this is ignored by deterrent measures such as turning boats back. According to a recent survey of asylum seekers in Indonesia, more than 90% do not arrive there with the intention of getting on a boat.<sup>38</sup> The long, dangerous and potentially fatal journey is the last thing that most families wish to confront. Asylum seekers come to Indonesia to be processed by UNHCR and resettled. They are willing to wait for this to happen. However, when weeks stretch to months and months stretch to years, with no apparent action on their claims, the prospect of boarding a boat for Australia begins to look more attractive.

More importantly, we should question the wisdom of ending boat arrivals in the first place. Even if it were possible, such an outcome misses the point. The truth is that whether people make it to Australia or not, they are still compelled to leave their homes and are still in need of protection. As the nation with the largest capacity in the region to respond, that moral responsibility falls squarely on Australia's shoulders (see myth 8). Turning back boats to countries which do not recognise refugees and which do not treat them humanely is not a real solution. It only solves one problem: Australia's need to deal with unauthorised arrivals, as well as the associated risks of travelling in leaky boats. However, the much bigger problem of refugees in need of safety and a durable solution remains.

A real solution to all of these problems would involve an increase in Australia's resettlement intake from Indonesia. This would not only provide a durable solution for refugees seeking protection but also remove the backlog of asylum seekers waiting in inhumane conditions which drive them to attempt the perilous journey to Australia. While there were 2567 asylum seekers and refugees in Indonesia at the end of 2009,<sup>39</sup> Australia resettled only 33 in 2005, 30 in 2006, 86 in 2007, 35 in 2008 and 29 in 2009.<sup>40</sup>

Clearly, we could do more.

This fact was implicitly recognised by the government in 2010 when it secretly decided to increase Australia's yearly resettlement intake from Indonesia to 500. This was welcome news. Unfortunately, two weeks before the end of the year deadline, fewer than 100 had come to Australia.<sup>41</sup> At the very same time, at least 30 asylum seekers escaping from Indonesia perished on a sunken boat off Christmas Island.<sup>42</sup> There could not be greater urgency for the government to fulfil and expand upon its promise.

<sup>36</sup> Alexandra Kirk, 'Rudd, SBY agree to tackle people-smugglers,' *The World Today*, <http://www.abc.net.au/worldtoday/content/2010/s2841753.htm>, 10 March 2010.

<sup>37</sup> Paul Maley & Paige Taylor, 'Labor changes tack after advice that turning boats around is unworkable,' *The Australian*, <http://www.theaustralian.com.au/national-affairs/labor-changes-tack-after-advice-that-turning-boats-around-is-unworkable-asylum-seekers/story-fn59niix-1225901843946>, 06 August 2010.

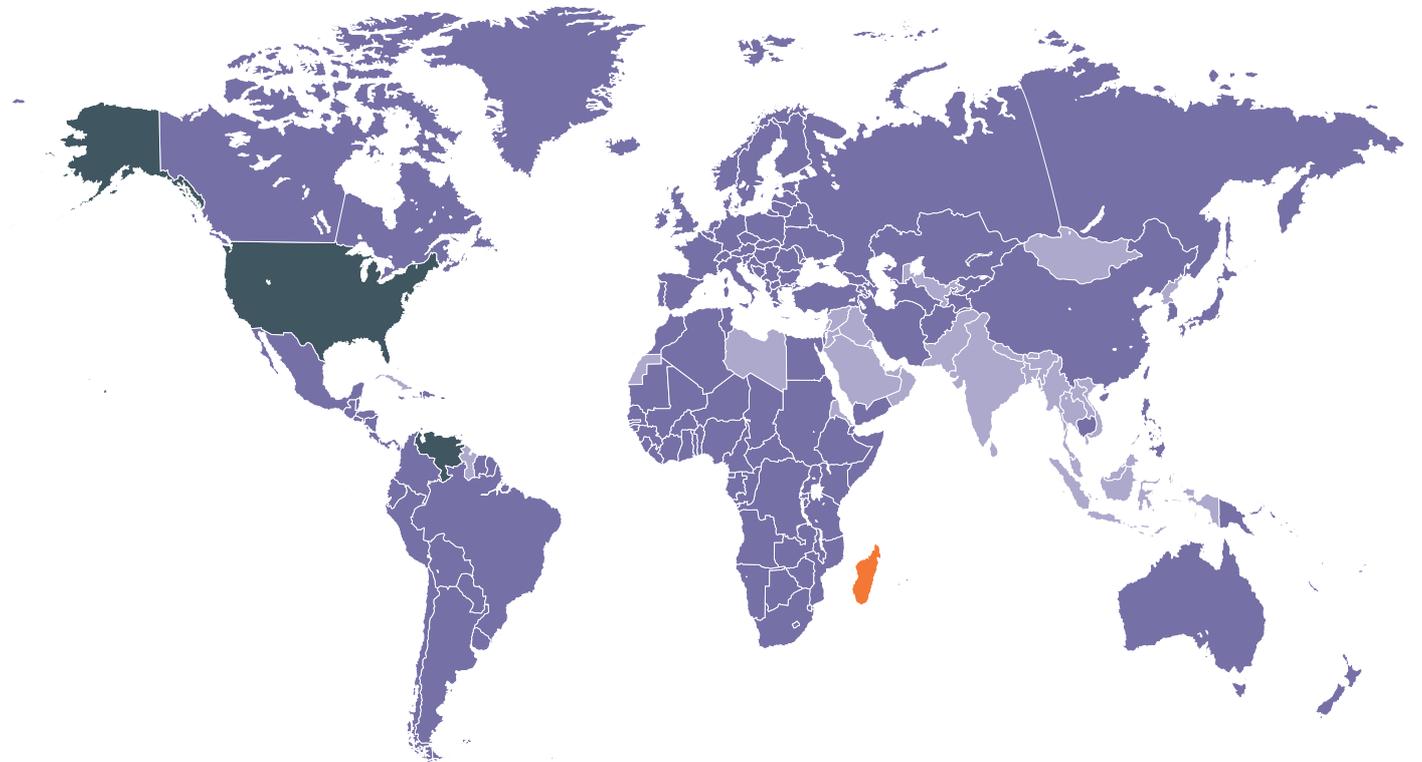
<sup>38</sup> Jessie Taylor, 'Behind Australian Doors: Examining the Conditions of Detention of Asylum Seekers in Indonesia,' <http://www.law.monash.edu.au/castancentre/news/behind-australian-doors-report.pdf>, 3 November 2009, p. 42.

<sup>39</sup> Savitri Taylor & Brynna Rafferty-Brown, 'Waiting for Life to Begin: the Plight of Asylum Seekers Caught by Australia's Indonesian Solution,' *International Journal of Refugee Law*, Vol: 22, Issue: 4, 2010, p. 5.

<sup>40</sup> Savitri Taylor & Brynna Rafferty-Brown, p. 28.

<sup>41</sup> Tom Allard, 'Backlog causing asylum seekers to turn to boats,' *The Age*, <http://www.theage.com.au/national/backlog-causing-asylum-seekers-to-turn-to-boats-20101215-18y5u.html>, 16 December 2010.

<sup>42</sup> 'Christmas Island boat disaster,' *Wikipedia*, [http://en.wikipedia.org/wiki/Christmas\\_Island\\_boat\\_disaster](http://en.wikipedia.org/wiki/Christmas_Island_boat_disaster).



> Turn back boats to where? Most of the countries in Australia's region are not parties to the refugee convention.

Figure 7

- Parties only to 1951 Convention
- Parties only to 1967 Protocol
- Parties to both Convention and Protocol
- Non-signatories

## MYTH 11 IF WE ARE TOO ‘SOFT’ THERE WILL BE A FLOOD OF REFUGEES

The principal forces behind refugee movements are ‘push factors’—war, poverty and political unrest—in source countries driving asylum seekers from their homes. As for ‘pull factors’, it’s geography and family links that are the most likely influences in determining the final destination of asylum seekers, not the specific domestic policy of any one nation. In any case, if Australia were to adopt a more humane and compassionate approach to asylum seekers, there is no reason to suggest the numbers would become unsustainable. There are some 10 million refugees in the world: if Australia is already so soft in its refugee policy, why haven’t more asylum seekers rushed here already? Why, over the past 20 years, has Australia consistently received only a trickle of around 5000 per year?

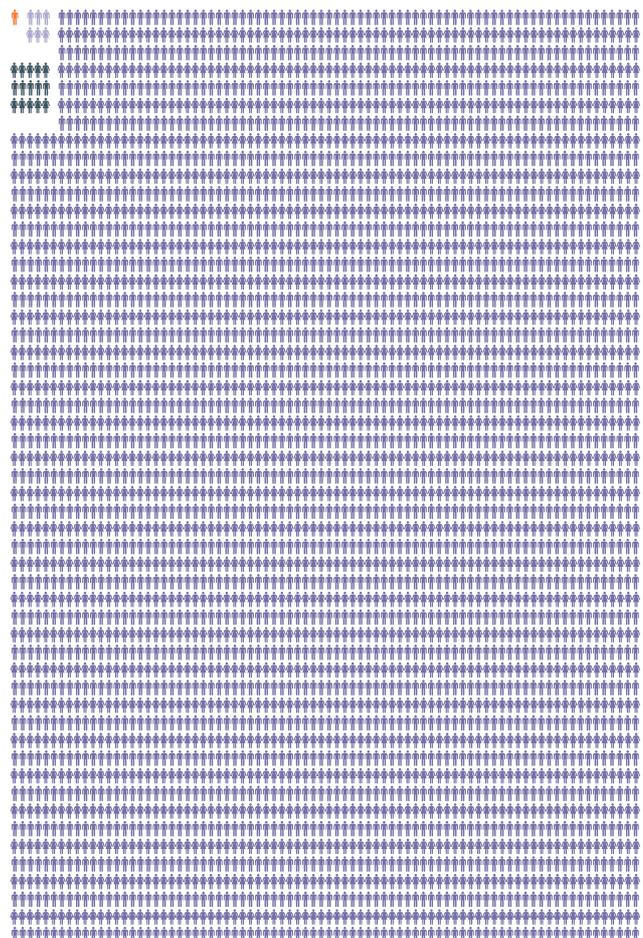
There are a number of reasons. Firstly, contrary to popular opinion, according to UNHCR, ‘the great majority of today’s refugees would themselves prefer to return home once the situation stabilises.’<sup>43</sup> Accordingly, the majority of refugees remain in a neighbouring country—usually in the developing world—waiting until it is safe to go home. The second and more significant reason Australia receives so few asylum seekers onshore is because the vast majority of refugees are not adequately mobile to reach such an isolated country. There are many countries between Australia and most of the world’s largest refugee producing regions, complicating the passage. Asylum seekers must navigate their way through countries that have not signed the Refugee Convention by living in the shadows to avoid detection by authorities. Many are caught, incarcerated and forced to endure inhumane conditions. So while there are likely to be more refugees seeking Australia as their final destination due to ‘pull factors’, there’s no reason to suggest it wouldn’t be manageable.

Even though the total number of refugees in the world is large, this is not an insurmountable problem. While today resettlement is offered to less than one percent of the world’s refugees, between 1912 and 1969, nearly 50 million Europeans sought refuge abroad and all of them were resettled. In the late 1970s, Australia resettled over 150 000 Vietnamese refugees from Southeast Asia under the Fraser Government. In the past, the world has demonstrated that, where there is the political will, vast numbers of people in need can be accommodated.

Figure 8

- Australia’s population
- Other permanent migrants
- Refugees by boat
- Other refugees

Sources: Parliamentary Library; Immigration Department



<sup>43</sup> UNHCR, ‘Helping Refugees: An Introduction to UNHCR (2006 edition),’ [http://www.unhcr.no/Pdf/basics/helping\\_ref\\_06.pdf](http://www.unhcr.no/Pdf/basics/helping_ref_06.pdf), p.14.

## **MYTH 12** WE NEED TO TAKE CARE OF OUR OWN FIRST; WE CAN'T PRIVILEGE ASYLUM SEEKERS OVER OUR OWN DISADVANTAGED

Australia has an overwhelming capacity to assist both with the disadvantaged at home and those arriving to seek protection from overseas. The two problems have no correlation. It is naive to expect that if the numbers of asylum seekers were to reduce so would the number of homeless and disadvantaged in Australia. Yet even if resources were stretched, a humane refugee policy is more cost effective than mandatory detention and offshore processing (see myth 15). So the best way to conserve resources to deal with Australia's disadvantaged groups is to adopt a more humane approach to asylum seekers.

It is often assumed (largely due to inaccuracies in the media) that asylum seekers receive greater benefits than ordinary Australians in need of assistance. Nothing could be further from the truth. Asylum seekers living in the community have *no* access to Centrelink benefits.<sup>44</sup> The only welfare benefits they are entitled to fall under the Asylum Seeker Assistance Scheme (ASAS). However, strict conditions for entitlement apply and the payments are only equivalent to 89% of the Centrelink Newstart Allowance. Only a small percentage of asylum seekers receive the ASAS. There is very limited government subsidised housing available to asylum seekers and as a consequence many are forced into abject poverty and homelessness. Without any secure form of income, most asylum seekers rely on charity for all aspects of their lives. Coupled with past experiences of persecution, this insecurity only compounds their mental health issues.<sup>45</sup>

Moreover, it is those who work tirelessly to face the horrors of poverty everyday that hold some of the most compassionate views on the plight of asylum seekers. Organisations like the Salvation Army, St Vincent de Paul, Anglicare, the Brotherhood of St Laurence as well as numerous others working endlessly to eradicate poverty in Australia are strong advocates of a more humane refugee policy.<sup>46</sup> In their latest report on homelessness, the Salvation Army specifically mention asylum seekers as constituting one of the most alienated, persecuted and disadvantaged groups in Australia.<sup>47</sup> They highlight that the biggest obstacles to eradicating poverty are structural, such as housing, an unfair and outdated social security system, discrimination and the lack of political will. Nowhere in their report do they mention asylum seekers as the problem. On the contrary, they explicitly highlight asylum seekers as the victims of poverty. It would seem that those who call upon Australia to 'help our own first' are not the ones who are doing the helping. We should listen to those who are.

> 'The Salvation Army believes that asylum seekers should **not** be compulsorily detained for more than ninety days, without an order of the court... People who have attempted to enter Australia without adequate documentation should **not** be treated as criminals.'

<sup>44</sup> DIAC, 'Letter to the editor - Hobart Mercury,' <http://www.immi.gov.au/media/letters/letters09/le091022.htm>, 21 October 2009.

<sup>45</sup> Hotham Mission Asylum Seeker Project, 'Australia's Hidden Homeless: Community-based approaches to asylum seeker homelessness,' Aug 2010.

<sup>46</sup> For example, see Salvation Army, 'The Salvation Army Response to Asylum Seekers coming to Australia,' <http://www.salvationarmy.org.au/media-centre/statements/statement-on-asylum-seekers.html>, 12 February 2002.

<sup>47</sup> Salvation Army, 'Perceptions of Poverty: An Insight into the Nature and Impact of Poverty in Australia,' <http://www.salvationarmy.org.au/media-centre/current-media-releases/perceptions-of-poverty-report.html>, 2010.

## **MYTH 13** ONSHORE ASYLUM SEEKERS SHOULD ONLY BE GIVEN TEMPORARY PROTECTION AND SENT BACK AFTER IT IS SAFE TO DO SO

UNHCR's governing body stresses that temporary protection should be used only in exceptional circumstances where a sudden and large influx of refugees means that it is not immediately practicable to grant permanent protection. Australia's previous use of temporary protection visas (TPVs) had no international precedent and was condemned by numerous human rights organisations such as Amnesty International and Human Rights Watch.<sup>48</sup>

There are a number of reasons why TPVs are not suitable as a standard procedure for asylum seekers. The first is that vast numbers of asylum seekers, including the majority that arrive in Australia by boat, come from countries suffering protracted conflict or political upheaval. Years or decades can pass, therefore, before a safe return is possible. For example, the Hazara population has been persecuted in Afghanistan for so long that many refugees have spent decades in neighbouring Pakistan and Iran. This was demonstrated during Australia's TPV program under the Howard government, when 90% of those who were initially given a TPV were eventually granted a permanent visa because it was still not safe to go home many years after they had arrived.<sup>49</sup> Temporary visas are just not practical for refugees who come from protracted situations.

Secondly, the disastrous mental health effects suffered by refugees have been well documented by medical experts in numerous studies.<sup>50</sup> Research by the University of New South Wales found that refugees on TPVs were highly traumatised and at risk of ongoing mental illness. This group had a 700% higher chance of developing depression and post-traumatic stress disorder than refugees with permanent protection. Refugees on TPVs experienced many of the same mental health effects as those in detention, such as self-harm and suicidal ideation. This was caused by their prolonged and overwhelming sense of insecurity, uncertainty and exclusion from society. Refugees on TPVs were also denied family reunion rights. The prospect of not being able to see their spouse or children without forfeiting the right to protection consumed refugees with guilt and worry about their families.

Rather than deter arrivals, it was because TPVs denied the right of family reunion that pushed the wives and children of asylum seekers onto boats in an attempt to be reunited. While less than 1000 'unauthorised arrivals' applied for humanitarian protection in 1999 when TPVs were introduced, the number rose to more than 4000 in 2001.<sup>51</sup>

This was tragically realised in the SIEVX disaster of October 2001 when 353 asylum seekers drowned on their way to Australia. Most of the 288 women and children aboard the SIEVX were family members of TPV holders already in Australia. They risked and lost their lives on the perilous journey because there was no other way for their families to be reunited. As Ghazi Al-Ghazi, a former TPV holder describes:

If they allowed us to bring our families this would not have happened . . . I had no other choice, that was my last option after it became obvious that I had lost hope of seeing my children because of the cruel condition of TPV. There was no other way but the sea to bring my wife and four children.

Fourteen members of Al-Ghazi's family drowned in the destroyed ship. He lost his wife and his four children – ten, eight, seven and four years of age—along with his wife's sister and her children, as well as her brother and his children. Because of restrictions on his TPV, Al-Ghazi was unable to go to Indonesia to bury his dead family members without risking being forbidden to return to Australia.<sup>52</sup>

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48 Human Rights Watch (HRW), 'Commentary on Australia's Temporary Protection Visas for Refugees,' <http://www.hrw.org/legacy/backgrounder/refugees/australia051303.htm>, May 2003.

49 Minister of Immigration and Citizenship, 'Liberals bereft of immigration policy,' <http://www.minister.immi.gov.au/media/media-releases/2009/ce09096.htm>, Press Release: 13 October 2009.

50 For a survey of these studies see Dr Don McMaster, 'Temporary Protection Visas: The bastard child of the One Nation Party,' [http://www.adelaide.edu.au/apsa/docs\\_papers/Aust%20Pol/McMaster.pdf](http://www.adelaide.edu.au/apsa/docs_papers/Aust%20Pol/McMaster.pdf), *Australasian Political Studies Association Conference*, 29 Sep-1 Oct 2004, p. 16.

51 Karin Fathimath Afeef, 'The Politics of Extraterritorial Processing: Offshore Asylum Policies in Europe and the Pacific,' *Refugee Studies Centre*, Working Paper No. 36, October 2006, p. 12.

52 SIEVX.com, 'He lost 14 members of his family in the ship catastrophe,' <http://sievx.com/articles/disaster/200111xxElTelegraph.html>, November 2001.

## MYTH 14 REFUGEES WILL STRAIN OUR ECONOMY AND THREATEN ‘OUR WAY OF LIFE’

Fears about refugees threatening our way of life are vastly exaggerated. There were 169 623 people who permanently migrated to Australia last financial year (2009-10). Boat arrivals made up 4543, or 2.5%. Even the entire refugee and humanitarian program was only 13 770, or 8% of the entire permanent migration program; a drop in the ocean.

Nonetheless, refugee and migrant economic and cultural contribution to Australia has been enormous and invaluable. Contrary to common belief, immigration and refugee resettlement does not lead to an increase in unemployment, nor is it a drain on the economy. In a study conducted by the Bureau of Immigration, Multicultural and Population Research in 1995, it was discovered that in the long term, the contributions to the economy made by migrants and refugees fully outweigh any initial costs involved in resettlement.<sup>53</sup> In 1985, the Australian government sponsored a report that confirmed that migrants to Australia did *not* take jobs away from native-born Australian citizens. Rather, they contributed to the expansion of the skills-based employment sector.<sup>54</sup> A case study conducted in 2003 revealed that Afghan refugees in Australia work extremely hard in labour-intensive jobs, generating greater income for their employers, whilst the resulting increase in taxes for the government were also substantial.<sup>55</sup> Refugees also open up opportunities for international trade. Vietnamese refugees who arrived during the 1970s and 1980s brought business and cultural knowledge and skills which have developed into vital trade links with much of Southeast Asia.<sup>56</sup>

Much anxiety about refugees ‘threatening our way of life’ has been directed at the prospect of Muslim migration overwhelming Australia. The numbers, however, have been vastly exaggerated. Muslims make up less than 2% of Australia’s population, over 80% speak English proficiently, over a third are Australian born, and only a fraction are former refugees.<sup>57</sup> More importantly, unfounded fears about recent waves of migrants being unable to successfully integrate into ‘Australian culture’ are not new. Social researcher and director of Ipsos Mackay Research, Dr Rebecca Huntley, made the following insights after investigating Australia’s historical documents on previous waves of migration:

There isn’t a thing that people said about Italians, negative things, that people don’t say now about new migrants: they’re criminal, they’re going to come and take our jobs, they work too hard, they’re going to just sit on welfare and do nothing, they form enclaves, they refuse to learn the English language, they treat their women badly, they come from a culture that doesn’t share our same values, they’re going to swamp and overtake us. All the kinds of things we’re quite familiar with were said about Italians . . .

Interestingly . . . people [today] will often say ‘I just hope that the new migrants that come here behave like the Italians did and just knuckle down and work hard and isn’t it wonderful that they came and changed the way we eat and so forth.’<sup>58</sup>

Refugees, fighting for survival and overcoming great traumas, have risked everything make it to Australia. They express immense gratitude to their adoptive nations. While it is a natural human response to fear social change, lessons from our own history illustrate that, if managed properly under effective government leadership, this change can be undertaken successfully. After a remarkable reversal of the White Australia Policy, Australia led the world in its multicultural transformation under the 1989 National Agenda for a Multicultural Australia. Unfortunately, with a decline of government leadership since, Australia’s embrace of multiculturalism has lost strength, depth and credibility. The last national multicultural policy expired in 2006. It is in the absence of such a policy the peak national body, the Federation of Ethnic Communities’ Councils of Australia (FECCA), along with 100 other key individuals and organisations across Australia, launched the 2010 campaign ‘reclaim multiculturalism!’ to restore our position as the most successfully diverse nation on earth.<sup>59</sup> Learning to overcome our fears about refugees is a good place to start.

53 R. Stevenson, ‘Hopes Fulfilled or Dreams Shattered? From Resettlement to Settlement Conference,’ Centre for Refugee Research, [http://www.crr.unsw.edu.au/media/File/Refugees\\_and\\_Economic\\_Contributions.pdf](http://www.crr.unsw.edu.au/media/File/Refugees_and_Economic_Contributions.pdf), 23-28 November 2005, p. 9.

54 Refugee Council of Australia (ROCA), ‘Economic, Civic and Social Contributions of Refugees and Humanitarian Entrants: A Literature Review,’ [http://www.refugeecouncil.org.au/docs/resources/Contributions\\_of\\_refugees.pdf](http://www.refugeecouncil.org.au/docs/resources/Contributions_of_refugees.pdf), February 2010, p. 8.

55 Frank Stilwell, ‘Refugees in a Region: Afghans in Young, NSW’ *Urban Policy and Research*, Vol. 21, No. 3, September 2003, p.235-238.

56 ROCA, p. 8.

57 Department of Immigration and Citizenship (DIAC), ‘Muslims in Australia Snapshot,’ [http://www.immi.gov.au/media/publications/multicultural/pdf\\_doc/Muslims\\_in\\_Australia\\_snapshot.pdf](http://www.immi.gov.au/media/publications/multicultural/pdf_doc/Muslims_in_Australia_snapshot.pdf).

58 Dr Rebecca Huntley, interview with Jane Hutcheon on ABC’s One Plus One, <http://www.abc.net.au/news/abcnews24/programs/one-plus-one/archive.htm>, 28 January 2011.

59 Federation of Ethnic Communities’ Council of Australia (FECCA) Press Release, ‘Over 100 organisations support multiculturalism campaign,’ [http://www.fecca.org.au/Media/2010/media\\_2010066.pdf](http://www.fecca.org.au/Media/2010/media_2010066.pdf), 30 November 2010.

## MYTH 15 MANDATORY DETENTION IS COST EFFECTIVE

It is virtually universally accepted that community based alternatives are more cost effective than mandatory detention. Estimates vary depending on the number of people in detention and the length of their stay but the operating cost of keeping the 1326 asylum in detention in 2003 was in the vicinity of 2 million dollars per week.<sup>60</sup> The number is certain to be significantly higher now given that there are 6730 people in detention, as of the 14 of January 2011.<sup>61</sup> Offshore processing is even more expensive than detention on the mainland because of the increased cost of delivering services to remote locations. A report by Oxfam and A Just Australia put the cost of the Pacific Solution, which saw asylum seekers detained on Manus Island and Nauru, at more than 1 billion dollars over five years, or \$500 000 per person.<sup>62</sup> The Christmas Island detention centre will cost almost 1 billion dollars over the next five years to 2013-14.<sup>63</sup>

In comparison, it is expected that the cost of processing asylum seekers while they live in the community would be equivalent to the income assistance rate currently paid through the Asylum Seeker Assistance Scheme (ASAS). The government spent 9 million dollars on this scheme to provide services to 2802 asylum seekers already living in the community over the entire 2009-10 financial year. While this does not include any additional health, counselling and case management costs, the total figure is undoubtedly significantly lower than the billions spent on holding asylum seekers in detention.

Community arrangements are far more cost effective because they do not involve purpose-built detention facilities requiring personnel, maintenance and 24-hour security. This is widely recognised. An international survey by UNHCR found that 'almost any alternative measure will prove cheaper than detention.'<sup>64</sup> An Australian parliamentary inquiry into the costs of detention presented overwhelming evidence that detention is an unnecessary burden and concluded that 'community-based alternatives are cost-effective options to the current regime and are consistent with a robust and enforceable system.'<sup>65</sup> Even the Department of Immigration and Citizenship (DIAC) recognises this reality. Bob Correll, deputy secretary of DIAC, noted in 2009 that 'where someone has been in a detention situation in the community, generally the cost of that is lower than other forms of detention, such as residential housing, transit accommodation or in a detention centre.'<sup>66</sup>

While the financial costs of locking up asylum seekers behind razor wire are immense, the human costs are incalculable. Clinical psychologists are still treating children and parents today from the trauma they suffered in detention during the Howard government a decade ago.<sup>67</sup>

60 Joint Standing Committee on Migration, 'Second report of the inquiry into immigration detention in Australia,' <http://www.aph.gov.au/house/committee/mig/detention/report2/fullreport.pdf>, May 2009, p. 116.

61 Department of Immigration and Citizenship (DIAC), Immigration Detention Statistics, [http://www.immi.gov.au/managing-australias-borders/detention/\\_pdf/immigration-detention-statistics-20110114.pdf](http://www.immi.gov.au/managing-australias-borders/detention/_pdf/immigration-detention-statistics-20110114.pdf), 14 January 2011.

62 Karlis Salna, 'Abbott unveils new Pacific Solution,' *The Sydney Morning Herald*, <http://news.smh.com.au/breaking-news-national/abbott-unveils-new-pacific-solution-20100527-wen3.html>, 27 May 2010.

63 'Cost of Christmas Island blows out to almost \$1b,' *The Sydney Morning Herald*, 11 May 2010, <http://www.smh.com.au/business/federal-budget/cost-of-christmas-island-blows-out-to-almost-1b-20100511-uurg.html>.

64 UNHCR, 'Alternatives to Detention of Asylum Seekers and Refugees,' <http://www.unhcr.org/refworld/pdfid/4472e8b8.pdf>, April 2006, p. 48.

65 Joint Standing Committee on Migration, May 2009, p. 128.

66 Joint Standing Committee on Migration, May 2009, p. 120.

67 ABC interview by Leigh Sales with Professor of Psychiatry Dr Louise Newman, 'Immigration Detention system on verge of collapse,' <http://www.abc.net.au/lateline/content/2010/s3011845.htm>, 14 September 2010.

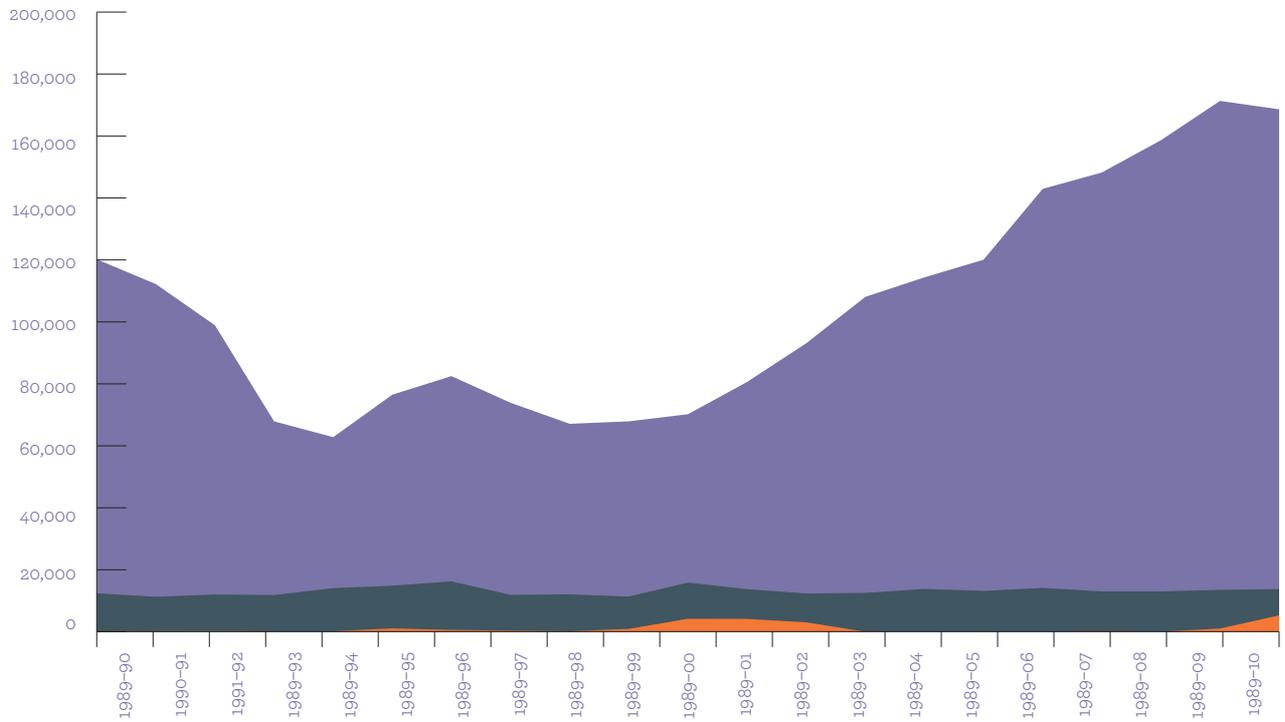
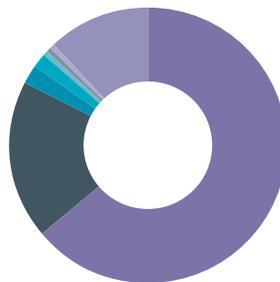


Figure 9

- Permanent Migration Program
- All Humanitarian Entrants
- Arrivals by Sea

Figure 10 Religious affiliation in Australia

- Christianity 63.9%
- No religion 18.7%
- Buddhism 2.1%
- Islam 1.7%
- Hinduism 0.7%
- Judaism 0.4%
- Other 0.5%
- Not stated 11.9%



Census 2006

## **MYTH 16** THERE ARE NO VIABLE ALTERNATIVES TO MANDATORY DETENTION

There is a workable administrative regime already in place in Australia today that provides for the processing of asylum seekers free from mandatory detention. The majority of asylum seekers who arrive in Australia 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, student or work visa, are not taken into detention. In 2010, there was approximately 8000-10000 such asylum seekers living in the community.<sup>68</sup> It is only those asylum seekers who arrive without a valid visa, or whose visa has expired, that are detained. It is unjust to discriminate against those who arrive without a visa as they have justifiable reasons for doing so and it is their legal right under the Refugee Convention (see myth 1).

It's argued that mandatory detention of unauthorised arrivals is necessary to conduct identity, security and health checks, and to prevent absconding while their legal status is resolved. In practice, asylum seekers are actually detained for the entire duration of the refugee status determination process which can and does stretch into years causing severe mental anguish. This is unjustifiable because identity, security and health checks can, for the most part, be satisfactorily performed while asylum seekers are living in the community, all the while avoiding the undue suffering caused by detention and the exorbitant costs to the Australian taxpayer.

There are certain circumstances in which detention can be justified if there are probable security concerns or to prevent absconding. However, the decision to detain should be assessed on an individual basis and not as a blanket policy for all unauthorised arrivals. Furthermore, this power should not be left unrestrained in the hands of government, as it is currently. Any decision to detain should be balanced by the right for judicial review so that continued detention is properly justified before a magistrate.

The deprivation of liberty is one of the most powerful actions that can be taken by the state against an individual. One of the pillars of a functioning democracy is the separation of these powers. To ensure justice, it is only the courts that are supposed to be entrusted with the power to deprive an individual of their liberty because the government of the day is susceptible to using that power for political purposes. Unfortunately, this is not the case for asylum seekers who, although not suspected of committing any crime, can be denied the fundamental right to liberty indefinitely without judicial oversight. Given that asylum seekers are a leading public issue in Australia the temptation for the government to abuse their power for political purposes is great. There are votes in being 'tough' on asylum seekers.

In light of these concerns, the ASRC advocates that the decision to detain asylum seekers should be subject to mandatory judicial review after 28 days and every seven days thereafter to ensure the grounds for the detention are properly and continually assessed and justified. This includes the right for asylum seekers to challenge any adverse security assessments. Mandatory non-reviewable detention for all asylum seekers regardless of their individual circumstances should be abolished. Children should not be detained under any circumstances. All of these changes must be incorporated into the law to ensure they are free from political interference.<sup>69</sup>

Such policy recommendations are in line with UNHCR's detention guidelines for asylum seekers which state that 'as a general principle asylum seekers should not be detained' except under exceptional circumstances where it must be 'subject to judicial or administrative review to ensure that it continues to be necessary'.<sup>70</sup> Many other industrialised nations have similar processes (see table below). If many other nations manage to treat asylum seekers humanely without the need for draconian detention policies, surely Australia can too.

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68 Hotham Mission Asylum Seeker Project, 'Australia's Hidden Homeless: Community-based approaches to asylum seeker homelessness,' <http://asp.hothammission.org.au/index.cgi?tid=3>, August 2010, p. 19.

69 For a more detailed summary of the ASRC's position on alternatives to detention, see ASRC, Submission to the Joint Standing Committee on Migration Inquiry into Immigration Detention, <http://www.aph.gov.au/house/committee/mig/detention/subs/sub121.pdf>, 29 August 2008.

70 UNHCR, 'UNHCR Revised Guidelines on Applicable Criteria and Standards Relating to the Detention of Asylum Seekers,' <http://www.unhcr.org.au/pdfs/detentionguidelines.pdf>, February 1999, p. 2.

Figure 11

Country	Time limits / Guidelines for review of detention
Austria	Maximum length of detention is normally two months, but can be extended up to 10 months.
Canada	Detention applies for security reasons, to establish identity, or if absconding is probable. Reviews undertaken 48 hours after detention, again within seven days, and then every 30 days thereafter. The average stay in immigration detention is eight days.
Czech Republic	Maximum length of detention is 180 days for adults and 90 days for unaccompanied minors.
Finland	In 2005, out of 640 detainees, the average length of detention was 17 days. The longest was 103 days. The court reviews the legality of a person's detention every fortnight.
France	32 days.
Germany	18 months.
Hungary	12 months, with automatic court review after six months.
Norway	Asylum seekers can only be detained for four weeks at a time and cannot exceed a total of 12 weeks unless the police consider the case to be exceptional.
Portugal	No detention.
Slovak Republic	180 days.
Spain	40 days.
Switzerland	Up to 60 days. Most are held for less than one month.

Source: A Just Australia, 'Protection not Punishment: the reception of asylum seekers in Australia,' Submission to the Joint Standing Committee on Migration Inquiry into Immigration Detention, <http://www.aph.gov.au/house/committee/mig/detention/subs/sub089.pdf>, July 2008, p. 10.

71 Figures are taken from UNHCR Global Trends Annexes (2009), <http://www.unhcr.org/globaltrends/2009-Global-Trends-annex.zip>. Note that UNHCR uses the number of onshore arrivals over 10 years for industrialised countries in order to get a more accurate picture of the relative burdens held by developed and developing countries.

72 United Nations Development Program (UNDP), 'Human Development Reports,' <http://hdr.undp.org/en/countries/>

73 Dan Harrison, 'Row over SIEV X memorial,' *The Age*, <http://www.theage.com.au/news/national/row-over-siev-x-memorial/2006/10/13/1160246313953.html>, 13 Oct 2006.