



Refugee Council of Australia

15 August 2012

Protection sidelined in rush to implement deterrence

The Australian Government's interest in the refugee protection measures recommended by the Expert Panel on Asylum Seekers has not matched its haste to implement the Panel's recommendations on deterrence, the Refugee Council of Australia (RCOA) says.

RCOA CEO Paul Power said that the political debate and the activity within the Parliament since Monday's release of the Expert Panel report had focused almost exclusively on just three of the Expert Panel's 22 recommendations – those related to re-establishing forced transfers of asylum seekers to Nauru and Manus Island.

Today, RCOA was one of 20 organisations to join former Prime Minister Malcolm Fraser and seven senior academics and lawyers in writing to the Prime Minister to oppose the legislation before the Parliament to re-establishing offshore processing of asylum claims. The letter raised serious concerns about the human rights implications of the legislation and the absence of any measure to enable regular Parliamentary scrutiny of transfer arrangements.

"The Refugee Council does not support the Expert Panel's recommendations about the re-establishment of offshore processing but we note that the Panel saw these recommendations as part of a package of measures which included critical steps towards improving protection options for refugees within Asia," Mr Power said.

"We know that on Monday the Prime Minister and Immigration Minister committed to implementing all 22 recommendations but we have heard little or nothing since about any of the recommendations designed to provide refugees with constructive protection alternatives to travelling to Australia by boat.

"The quality of the political debate from the Government and Opposition this week yet again leaves many Australians despairing about whether our political representatives have the interest or the capacity to deal with the complex nature of the regional challenges in refugee protection.

"Australians – and the many people across Asia and beyond who are watching our national debate – need to hear more detail as soon as possible about Australia's plans to expand refugee resettlement and focus greater attention on regional cooperation and supporting refugee protection."

Mr Power said the Australian Government must give details of its strategies to implement the following measures recommended by the Expert Panel:

- An immediate increase in the Refugee and Humanitarian Program to 20,000 places and an increase to 27,000 places within five years.
- Increased funding for UNHCR to improve processing systems for asylum seekers in Asia and the Middle East.
- Increased support for capacity-building and service delivery programs among NGOs and civil society groups in the region.
- Focusing Australia's Refugee and Humanitarian Program on asylum seeker flows moving from source countries into South East Asia.
- Regional engagement and cooperation with Indonesia and Malaysia.

- A whole-of-government strategy to engage with source countries for asylum seekers coming to Australia, with a focus on increased resettlement from the Middle East and Asia.
- Addressing the current backlog in the Special Humanitarian Program.
- Creating more opportunities for resettlement by promoting coordinated strategies among traditional and emerging resettlement countries.

“If the Australian Government is serious about creating incentives for asylum seekers to seek protection through established regional systems, it needs to start this work now,” Mr Power said.

“That means committing to targets and a timetable to build the Regional Cooperation Framework that stands the best chance of improving protections for refugees and asylum seekers in the region and ensuring they don’t have to risk their lives at sea to find basic protection.”

Joint letter to the Prime Minister follows this page

ROCA’s submission to the Expert Panel on Asylum Seekers can be viewed at http://www.refugeecouncil.org.au/r/sub/120720_ROCA.pdf

Media contact: Andrew Williams 0488 035 535

JOINT LETTER TO THE PRIME MINISTER ON OFFSHORE PROCESSING LEGISLATION

The Hon Julia Gillard, Prime Minister

August 15, 2012

Dear Prime Minister

We are united in our opposition to the Migration Legislation Amendment (Offshore Processing and Other Measures) Bill currently before Parliament. We are also concerned that other legislative changes required to implement the recommendations of the Expert Panel on Asylum Seekers will, if passed, see the Australian Parliament remove legislative safeguards for asylum seekers, reverse previous measures implemented to protect vulnerable people and breach Australia's international obligations. We oppose any form of offshore processing and policies centred on deterrence and punishing people based on their mode of arrival.

We are particularly concerned that implementation of the Expert Panel's recommendations will:

- Repeal the few human rights protections included in the offshore processing legislation passed in 2001.
- See any country designated for offshore processing, regardless of whether it is a party to the Refugee Convention.
- Punish asylum seekers who arrive by boat in breach of the Refugee Convention.
- Implement a return to assessing asylum applications in Nauru and Manus Island, ignoring past lessons regarding the mental health impacts of holding people indefinitely with limited freedom of movement.
- Facilitate the removal of child asylum seekers from Australia.
- Facilitate the transfer of unaccompanied minors who will have no guardian to act in their best interests, in breach of the Convention on the Rights of the Child.
- Prevent IMAs (whatever their age) from proposing family members for the Special Humanitarian Program (SHP), creating greater incentive for families who want to stay together to travel by boat to Australia.
- Leave open the possibility that boats may be turned back in the future, contravening the Convention for the Safety of Life at Sea.

We welcome recommendations which increase our annual humanitarian intake and additional options for family reunion for refugee and humanitarian entrants. We also welcome the much greater focus on developing refugee protection options in South East Asia and a possible future review of the policy which links onshore and offshore visa places. However, these positive recommendations in the Expert Panel report must be legislated to ensure they are enshrined in law.

We are concerned also that, if neither House of Parliament uses the proposed disallowable instrument mechanism to vote down the transfer of asylum seekers to a particular country, the transfer arrangement could remain in place in perpetuity. At the very least, transfers of asylum seekers out of Australia should be subject to regular review by Parliament. We ask the Parliament to specify in legislation that every disallowable instrument specifying a location as a place where asylum seekers may be transferred must include a six month sunset clause to enable regular Parliamentary scrutiny of transfer arrangements.

This consensus statement is signed by agencies and individuals who are directly concerned with and involved in the support of refugees and asylum seekers and academics with relevant expertise.

Yours faithfully

Amnesty International Australia
Asylum Seeker Resource Centre (ASRC)
Asylum Seekers Christmas Island
Asylum Seeker Welcome Centre (ASWC)
Bridge for Asylum Seekers Foundation (BASF)
Balmain for Refugees (BFR)
Brigidine Asylum Seekers Project
Sonia Caton, Migration Agent
CASE for Refugees
Centre for Human Rights Education, Curtin University
ChilOut
Coalition for Asylum Seekers Refugees and Detainees Inc (CARAD)
Darwin Asylum Seeker Support & Advocacy Network (DASSAN)
Rt. Hon Malcolm Fraser AC, CH
Sandra Gifford, Professor of Anthropology and Refugee Studies

Human Rights Law Centre (HRLC)
Hotham Mission Asylum Seeker Project (ASP)
International Detention Coalition
Ged Kearney, President, Australian Council of Trade Union (ACTU)
Melbourne Catholic Migrant & Refugee Office
Professor William Maley, AM FASSA
Dr Anne Pedersen, Associate Professor
Refugee Council of Australia (RCOA)
Refugee and Immigration Legal Service (RAILS)
Uniting Church in Australia Assembly
Welcome to Australia
Dr Savitri Taylor, Associate Professor and Director of Research
Tamara Wood, Nettheim Doctoral Teaching Fellow and PhD Candidate