

2004

Message

Mandatory Detention of Asylum Seekers

Australian Catholic Bishops' Conference

May 2004

The Australian Catholic Bishops wish to speak for refugees and asylum seekers and [\[3103\]](#) ask the Government and all Australians to respond with urgency to their needs. We plead the cause of refugees and asylum seekers again because the Gospel compels us to do so. We remain hopeful that hearts and minds will change so that the treatment of refugees and asylum seekers in Australia may be more humane, more respectful of human dignity. The nation's response should be just, compassionate and consistent with our obligations under International Law and the 1951 United Nations Convention on Refugees and other Conventions to which Australia is a signatory.

International and national responses to the movement of people [\[3104\]](#)

The protection of asylum seekers and refugees depends on international cooperation, and Australia must play a generous part in this international effort.

We urge the Government to continue to encourage other nations to protect these vulnerable people, and to support more effectively the efforts of the countries to [\[3105\]](#) which asylum seekers first flee when they leave their own lands. Australia is a nation built on immigration; its response to the needs of refugees and asylum seekers could be more generous and flexible.

We are heartened that next year Australia will accept 13,000 (previously 12,000) [\[3106\]](#) people on humanitarian grounds, 6,000 of them refugees (previously 4000). We hope that these numbers will increase in coming years, and that Australia will develop special programmes to meet promptly the crises that produce refugees. The humanitarian target should not be reduced by the number of those who, already in Australia, are granted refugee status.

Mandatory detention of asylum seekers [\[3107\]](#)

We do not deny Australia's right to control those entering its territory. However, this border protection must be exercised transparently, flexibly and in a non-discriminatory way.

Asylum seekers who flee persecution are often forced to enter other countries when [\[3108\]](#) they are not in a position to meet legal formalities and to secure proper documentation. Accordingly, the 1951 United Nations Convention on Refugees (Article 31) exempts from punishment for illegal entry those who flee their own lands because of persecution, provided that they contact the authorities with good reasons for their request for asylum. To deprive them of their liberty for long

periods amounts to a severe punishment.

It is always unjustifiable to detain asylum seekers in order to deter future asylum seekers from coming to Australia. Prolonged detention is gravely injurious to those on whom it is inflicted: and the Catholic moral tradition has always insisted that it is morally wrong to use unacceptable means even for an arguably good end. [3109]

In receiving asylum seekers, it is appropriate to hold people until they have satisfied questions about their identity, health and security issues. But unless evidence is presented in particular cases to support continuing detention, they should not be detained further. Certainly, detention should be non-discriminatory. [3110]

The detention of children and other vulnerable people [3111]

It is impossible not to be deeply moved by the plight of children who are detained. The detention of children disregards United Nations Guidelines and the Convention on the Rights of the Child, to which Australia is a signatory.

We must, as a matter of urgency, find alternatives to detention for unaccompanied minors and for children who accompany their parents. Such alternatives must respect the importance of family unity and family reunion, and ensure that children damaged by detention receive adequately funded care in the community. Church agencies have shown their willingness to help in this. [3112]

We are also concerned by the plight of stateless persons and those for whom a safe country of residence cannot be found. It is not right that they be placed in detention indefinitely simply because Australia cannot find another nation that will accept them. [3113]

Detaining vulnerable persons such as single women, children, unaccompanied minors, those with a mental or physical disability, torture or trauma victims, and women in the late stages of pregnancy or nursing babies, is morally unacceptable. Nor should it be forgotten that detention can have a traumatising effect upon those who are detaining or caring for asylum seekers. [3114]

The resettlement of asylum seekers found to be refugees [3115]

Until recently, Australia granted permanent residence to all asylum seekers found to be refugees, regardless of how they arrived. This meant they could rebuild their lives and their confidence as full and equal members of the Australian community.

More recently, those arriving without proper documentation (usually by boat) have been given only successive three-year temporary visas if they are found to be refugees. They have been denied the right of reunion with their spouses and children. They have limited access to Government settlement services, and rely heavily on already over-stretched voluntary agencies. [3116]

The change has ensured that vulnerable refugees live with dangerous levels of anxiety. It is also a denial of natural justice. The refusal to issue documents to allow travel and re-entry to people on temporary protection visas is unjust. [3117]

We deplore the human suffering caused by the policy on Temporary Protection Visas for people found to be refugees. All who are proven to be refugees should be granted permanent protection in the first instance. [3118]

Asylum seekers released into the community on the Bridging Visa E [3119]

We are glad to see that some asylum seekers are being released into the community on the Bridging Visa E while their refugee claims are being assessed. However, Church and other community organisations which support them cannot continue to do so indefinitely without Government help. These asylum seekers need work rights, health care, and access to English classes and other mainstream services. We ask the Government to consider this important matter.

Border protection and the ‘Pacific Solution’ [3120]

All procedures that bear on the detection, surveillance, interception and reception of vessels suspected to contain asylum seekers must be consistent with Australia’s moral and legal obligations. Those claiming asylum inside Australia’s territorial waters should be escorted for processing by Australian border protection personnel in ways that ensure their safety.

We repeat our conviction that the ‘Pacific Solution’ is in fact no solution at all, nor is the artificial manipulation of our migration zones. It is also unacceptable to use the Christmas Island facility to isolate asylum seekers from advice and assistance. [3121]

We believe it would be better for Australian officials to process all asylum seekers entering Australian territory and that after initial identity, health and security checks they be moved to the mainland and placed in a structured programme in the community, while awaiting the processing of their refugee claim. [3122]

Public awareness of refugees [3123]

We urge the Government to make available resources which will help the Australian community understand better the situation of refugees. These should include the resources of the Office of the United Nations High Commissioner for Refugees. We commend the media for their public awareness programmes which focus on the positive social and cultural contributions made by refugees and the horror that led them to flee.

Conclusion [3124]

At this time when few asylum seekers arrive by boat on our shores, Australia has the opportunity to implement a just and humane refugee policy. Australia has the chance to restore its reputation as an exemplary humanitarian country where refugees can rebuild their shattered lives and where, as a nation, we can sing without shame that “for those who come across the sea, we’ve boundless plains to share”.

Source: Archives of the Australian Catholic Migrant and Refugee Office (ACMRO), Canberra, Australia.
