

SUBMISSION ON AUSTRALIA 'S HUMANITARIAN PROGRAM FOR 2003-04

From the Australian Catholic Migrant and Refugee Office

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The Australian Catholic Migrant and Refugee Office (ACMRO) appreciates the opportunity to participate in the consultation concerning the composition of the Australian Humanitarian Program for 2003-04.

General Issues of concern:

- Australia treats potential refugees as a problem in contrast to accepting that the refugee problem is a global concern and requires a degree of moral courage in finding solutions.
- Lack of a balanced debate on the humanitarian program, especially in relation to asylum seekers.
- A lack of community education about asylum seekers and their origins resulting in an uninformed public holding negative and hostile attitudes towards asylum seekers.
- Governments response to asylum seekers namely the rationale for the expense involved in detaining asylum seekers who hold no security threat to Australia.
- The rationale and costs involved with the Pacific Solution
- The legislation of September 2001 (7 bills), which was developed with little or no consultation with experienced people in the NGO sector.
- The current lack of cooperation between Government, business, community and non-government groups in approaching the asylum seeker issue. It requires improvement in the use of Government and business, private and community sectors (including religious organizations) resources to consider options and opportunities to enable the settlement of greater numbers of refugees.

Specific Issues of concern:

- temporary protection visas for undocumented arrivals, especially the prevention of family reunion and eligibility for permanent residence;
- the causes of refugee situations should be addressed more strongly
- mandatory detention concerning the conditions and treatment of detainees, especially of children in detention;
- the linking of the on-shore and off-shore Humanitarian Programs;
- the right of family reunion for those seeking protection;
- the numbers in the humanitarian program do not respond adequately to the numbers of refugees requiring resettlement as identified by UNHCR; and
- slow processing of humanitarian cases in some overseas posts

In recognition of Australia's international obligations and adherence to humanitarian responsibilities, we welcome a migration system that is protective of those who genuinely seek our protection. However, many people (including members of the Catholic Church) are concerned that those people, who come to Australia without documentation (by sea or air) and seek our protection, are treated harshly as law-breakers. They find phrases like 'queue jumpers' and 'illegal boat people' offensive, and prefer the term "irregular (or undocumented) migrants" - a term used by Pope John Paul II. Australians should be made aware of the desperate situations that cause many people to enter Australia irregularly, and they should not be encouraged to be lacking in compassion towards people seeking protection. Members of the Catholic community have expressed concern with the government's current asylum seeker policy and the manner in which Australia treats desperate people who have the resources to use people smugglers. They have called for the Government to act with compassion and generosity by

increasing the refugee program as a token of our concern and to "respect the human dignity and right of asylum seekers"[1].

The Government (and indeed the Parliament) should adopt a responsible approach focussing on Australia's international obligation of burden sharing. There should be consultation and cooperation with peak organizations and with other countries to address the causes, which lead to people seeking protection and to find solutions for the growing problem of irregular migrations. The Pope in his message for the World Day of Migration[2] 2003 suggests that "migration has become a widespread phenomenon" affecting the most vulnerable such as "undocumented migrants, refugees, asylum seekers, those displaced by continuing violent conflicts in many parts of the world, and the victims - mostly women and children ." noting we should be mindful of this situation and to meet the challenge of ". turning from egoism to altruism, from fear to openness, from rejection to solidarity" in order to help the vulnerable.

When the Vatican's permanent observer at the United Nations, Archbishop Renato Martino, addressed the General Assembly[3], he stated that the refugee problem is one of the most critical faced by the world today as people continue to be forced from their homes. While some nations are wealthy, there are 22.3 million displaced people of whom 11.6 million are refugees and 4 million are internally displaced people. Fifty to seventy per cent are children, some of who have only known life as a refugee in a refugee camp. He pointed out the critical need to support the unity of refugee families as "experience has shown that the family unit has a better chance of reintegrating in their home or reintegrating in a new country than do individual refugees". Temporary protection visas, which prevent family reunion, are clearly in opposition to this sentiment.[4]

It is difficult to comment on humanitarian issues without considering "economic refugees". Pope John Paul commented on the phenomenon of migration in his message for 2000[5]: "The Church hears the suffering cry of all who are uprooted from their own land, of families forcefully separated, of those who, in the rapid changes of our day, are unable to find a stable home anywhere . she supports them in their unhappiness". This theme continued into 2001[6] "although it is true that highly developed countries are not always able to assimilate all those who emigrate, nonetheless . the criterion for determining the level that can be sustained cannot be based solely on protecting their own prosperity, while failing to take into consideration the needs of persons who are tragically forced to ask for hospitality". People seeking protection have not chosen that path, and many have been forced to take drastic measures. The Pope notes that "patterns of migration have changed" over the last fifty years cautioning that "people already marginalised will be further penalised because they are not part of the process of economic globalisation".[7] This point is reinforced by the comment made by a former adviser to the Minister for Immigration who stated that ".global conditions will ensure a certain movement of people seeking freedom from oppressive regimes. It is our common task to cope with this emergency."[8]

ACMRO urges that human needs be considered as a defining principle for the development of the Humanitarian Program whilst recognising that economics, global forces, and popular public opinion will influence planning for the Humanitarian Program. We urge the Government to take an international leading role by increasing humanitarian numbers as a positive acknowledgment of justice deserving of migrants, displaced people and refugees. Positive action at this time in our history is vital to ensure that human dignity is always defended.

I hope that these comments are helpful. The following comments address the issues raised in the 2003 - 2004 Humanitarian Programs: discussion paper.

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Acting Director

Humanitarian Program

ACMRO supports the Refugee Council of Australia (RCOA) in its mission to have an increase in the offshore category and therefore enable more refugees to enter Australia under safe and organised conditions, noting the "offshore program should be increased commensurate with the role afforded to resettlement in UNHCR's Agenda for Protection". [9]

The number of humanitarian cases approved overseas is currently at about one third of the level of 20 years ago. As a wealthy nation we have a responsibility to share the burden posed by those who seek asylum. That responsibility is the heavier when military and political action was carried out in Afghanistan and the Middle East with our support. As a member of the 'coalition of the willing' to attack Iraq, what is Australia's strategy to deal with potential refugees from that conflict? Will those asylum seekers currently in Australia who have sought protection be accepted on the basis that they are unable to return to Iraq, and importantly will Australia increase its humanitarian numbers to meet its international burden-sharing obligation to accept asylum seekers from Iraq?

Assisting Countries of First Asylum

In the context of assisting countries of first asylum the Australian Council for Overseas Aid (ACFOA) articulated the need to understand the complexities which impact on refugees and other displaced persons, stating:

"The Government has recognised that measures to address root causes of refugee flows, such as endemic poverty, conflict, political persecution and repression, are key elements in its strategy to deal with the problem of unauthorised arrivals and people smuggling. ACFOA has stressed the need to understand and compassionately and flexibly respond to issues relating to complex humanitarian emergencies and human rights abuses and their impact on refugees and internally displaced persons (IDPs). Australia's response must be consistent with international trends, and our international obligations. This requires an integrated, whole of government approach rather than the spread for refugee matters across four major portfolios. Following on from this, we note that while refugee protection remains UNHCR's core mandate, the UN Secretary General decided to mainstream human rights throughout the UN system beginning in 1997. This shift is one of a number of initiatives currently being deliberated by NGOs, the UN and military authorities in relation to refugee issues. This includes a review of the UN's work with IDP in five countries, among them Indonesia. Human rights issues involving the long-term detention of asylum seekers arriving without proper documentation has been a major focus of community and media debate. Very much related to the above concerns are a number of other issues on the international agenda, in particular the relief-development gap. There is disparity in response to different refugee and IDPs emergencies, based on the strategic importance governments place on particular crises or operations. For example, in 1999, \$120 per person was spent in the former Yugoslavia. This was over three times the \$35 per person spent in West Africa. Long-term reconstruction and reconciliation efforts, including strengthening democratic institutions, civil society and supporting social justice and good governance, in post-conflict work is vital to help prevent conflicts re-igniting".

The government should adopt the ACFOA [10] recommendations on Refugee and Internally Displaced People:

Recommendation 59

ACFOA recommends that the Australian Government:

59.1 Evaluate refugee and humanitarian planning and policy processes on a non-partisan and expert basis to develop a framework and priorities for a flexible humanitarian response. This framework needs to consider the spectrum of refugee relief, including prevention, emergency response, resettlement and asylum.

59.2 Act within the United Nations system to strengthen the core mandate of refugee

protection in international law and practice, including the provision of equitable financial and human rights treatment based on need, regardless of geography.

59.3 Evaluate the results of the UN's Inter-Agency Standing Committee Working Group on Security report on a framework agreement for operations to guide the basis for security relations between the UN and NGOs at the field level.

59.4 Evaluate the results of the UN Inter-Agency Standing Committee Senior Network review of UN work with IDPs so that lessons can inform the Australian response, both government and NGO, to more effectively meet the needs of IDPs.

59.5 Use its place in the UN and other multilateral structures to press for serious efforts to seek permanent and just resolution of long-standing refugee situations in Afghanistan and Iraq. Part of this must involve the abandonment of the punitive and ineffective United Nations' "Food for Oil" sanctions, which are causing such humanitarian suffering in Iraq.

59.6 Urgently seek alternatives to the present long-term detention of asylum seekers who arrive without proper documentation.

59.7 Break the numerical linking of the on-shore and offshore humanitarian programs.

59.8 Increase resourcing of overseas migration posts with large humanitarian work-loads to facilitate efficient, equitable and timely processing of referrals and applications.

59.9 Reverse its decision to only offer temporary residence to those granted refugee status in Australia and to restore full services recognised as being essential for refugees to live productively within the community.

In summary, ACMRO endorses the sentiment that a global response is necessary in finding a collaborative solution to the refugee problem. That a long-term strategy is adopted enlisting international and regional cooperation and support to share the responsibility in seeking solutions in the global context where compassion is elevated as a functional element of the strategic process. We acknowledge and accept that government must act responsibly in controlling movements in and out of Australia, but we believe a refugee policy should be more concerned with alleviating the problem and providing protection to victims of global circumstances.

Humanitarian Claims and the Refugee Program

The focus of the Humanitarian Program should be on those who do have claims by having greater generosity in Australia's humanitarian program in response to the number of people seeking protection as identified by the UNHCR.

We support in entirety the Catholic Commission for Justice Development and Peace who state that "The current offshore program of resettlement should be de-linked from the on-shore program which handles asylum seekers. This linkage has only been the case since 1996. The role of de-linking the two programs would be that an increase in use of on-shore places through successful asylum claims would not be offset by a decrease in places in the resettlement and would be, therefore, less incentive to take the people smuggling option. An immediate option is to increase the resettlement program to encompass all of the current 12,000 places providing an extra 4,000, and then a notional allocation of an extra 3-5000 places for on-shore asylum claims"[11].

It is not disputed that the integrity of Australia's migration program and borders are maintained - but equally - the integrity of the humanitarian program should be maintained so that it can provide protection commensurate with the number seeking protection. This is especially evident as the UNHCR identified 21 million people of concern at the end of 2000 consisting of: 12 million determined to be refugees; 1 million asylum seekers; 6 million people displaced

in their own country, and others who returned to their country, but whom UNHCR monitor. The countries producing the largest number of refugees in the world at present is Afghanistan (3,809,600), followed by Burundi (554,000) and Iraq (530,100)[12]. Asylum seekers who arrived in Australia without documentation, came principally from Afghanistan and Iraq. They have been fleeing from persecution from their ruling regimes and more recently, following the turmoil in Afghanistan, UNHCR is fearful that those fleeing persecution could number many millions. They flee initially to

Pakistan or Iran, countries of first asylum. Even if they obtain refugee status there from UNHCR, there is no future for them in these overcrowded countries. UNHCR says that desperation at not being able to find a home forced many of these refugees and asylum seekers to pay people smugglers to help them reach Australia via Indonesia. In October 2001, 500 recognised refugees were awaiting resettlement from Indonesia and 2000 were awaiting assessment. The Refugee Council of Australia (RCOA) notes an issue of incongruity with the Humanitarian Program namely that the UNHCR will have fewer places for its priority caseload and will "have to share its allocation with refugees identified in Indonesia and as part of the Pacific Solution". Recent discussions with ACFOA[13] support and highlight the importance of restoring UNHCR's core funding, as reflected in the program year for 2001-02, so that it can deal with numbers requiring resettlement.

Pacific Solution

ACMRO supports Caritas Australia[14] in its objection to the Pacific Solution based on Caritas's extensive experience and expertise working with displaced persons and refugees and "through its work in many difficult emergency situations and through its development programs worldwide". Notwithstanding Australia's right to maintain the integrity of Australia's border and migration program, Caritas state that the Pacific Solution has practical and moral concerns such as:

- The right to seek asylum has been undermined and Australia's obligations, both moral, and legal, disregarded.
- The Pacific communities involved are suffering negative impacts from the program, despite the millions of dollars spent on infrastructure and local wages.
- The asylum seekers are being detained illegally in Nauru and Manus. They are suffering increased trauma and stress, coming on top of an already difficult journey.
- The program is jeopardising Australia's relationships with its neighbours, particularly through the persuasion of Pacific governments with offers of money.
- The program has been conducted in secret. The bilateral agreements reached have not been made public.
- The amount of money spent has been excessive, larger than the whole of Australia's South Pacific aid program.[15]

More recently the National Council of Churches in Australia (NCCA) at the Nuclear Free and Independent Pacific Conference held in Tonga "called for the abandonment of the so-called Pacific Solution".[16] It also sought from the Australian Government to focus on ". pursuing policies that give greater emphasis to both assisting refugees and displaced people overseas and in Australia by providing initial health, security and character checks, followed by community-based models" in place of the current system of detention for asylum seekers.

Assistance for Countries of First Asylum

We acknowledge the significance that Australia is one of only ten countries operating a resettlement program - however we argue that it remains more logical to help those in countries of first asylum rather than focusing on preventative methods and policies of deterrence. This approach appears to be lacking given that the UNCHR funding was almost halved in last year's budget - this contradicts Australia's intention to help with the protection and welfare of asylum seekers in contrast to money spent on policies of deterrence and border protection.[17] Would this money be better spent under a policy of prevention designed to alleviate the need to have expensive and administratively cumbersome disincentive policies.

The RCOA provides a compelling argument why budgetary considerations should be less focused on prevention and disincentives such as the pull factors to Australia for those in countries of first asylum, rather the focus should be on the push factors. The RCOA substantiates its argument based on the following reasons:

"It is the opinion of the Refugee Council that the issue of secondary movement has at its core the conditions in the countries of first asylum, i.e. it is our contention that the push factors are far more important than the pull factors.

In most refugee situations traditionally there has been the expectation that refugees cross a border into a neighbouring state where they will receive protection until such time as they can return voluntarily to their country of origin. There has also been the expectation that any especially vulnerable refugees amongst the much larger caseload will be identified and assisted by resettlement. This ideal scenario depends on a number of factors including:

- the willingness of the host country to provide ongoing sanctuary;
- the adequacy of assistance provided by the international community to the host country and when the time comes for repatriation;
- the resources given to UNHCR to identify and process vulnerable individuals;
- the willingness of resettlement countries to offer places;
- the fairness and expedition of resettlement processing;
- the level of confidence that refugees have that their basic rights will be met and they will not be forced back to their country of origin".

Sufficient aid and funding therefore should be considered as vital preventative elements to support those countries burdened with providing asylum. Such support could provide the necessary nexus to prevent secondary movement of those seeking asylum, especially for those who are forced to seek alternative solutions to their asylum problem because of the effects of the above points as identified by the RCOA. This is a complex policy issue, that requires a level of commitment in its international endeavours and cooperation by the Australian Government - central to the task is to find and provide durable solutions for asylum seekers by developing a comprehensive approach which serves to support and complement aid programs.

Anecdotal comments made by members of the Catholic community to this office generally questions the Governments response to asylum seekers namely the rationale for the expense involved in detaining asylum seekers, notably for those who hold no security threat to Australia; the costs involved with the Pacific Solution; and other policies of deterrence. These comments are made in the context of Australia's moral obligation to help those seeking safety. In particular many members of the Catholic community have highlighted their concerns with Government policy, that appears to penalise a very vulnerable group, and as noted by the RCOA "it is contrary to the spirit of the Convention to penalise refugees who have moved beyond the country of first asylum in any way".[18] This sentiment complements the notion made at the Refugee Convention[19] that a human rights framework is vital in consideration of asylum seeker and refugee issues.

As noted by the NCCA[20] the importance of the promotion of justice and equality is vital in addressing and redressing global issues.

Australia's priority and focus to the three elements of prevention/disruption of people smuggling/reception arrangements should be:

Prevention - Greater cooperation is required with the international community in order to deal with the number of people who are susceptible to people smuggling. Bilaterally, solutions need to be creatively considered giving attention to the root causes of refugee situations and to prevent vulnerable people from taking desperate measures by using people smugglers. The impact of globalisation must be responded to in a responsible manner by countries with the ability to find solutions to the reasons for population movement, not by reacting by being very restrictive on the entry of migrants and refugees. Attention is also required to consider the nexus between the periods of high need for protection by asylum seekers and the opportunity for those to profit from fraudulent and illegal people movement. As the NCCA notes, there is a significant correlation when restrictions are placed on asylum seekers to an increased opportunity for people movers.[21]

Disruption of people - What are the factors which support/enable people/movers to function and operate? The UN Commissioner for Refugees suggests the "lack of durable solutions is resulting in two "non-solutions" for refugees: protracted stays in refugee camps and the fact that out of desperation, some refugees are turning to criminal smugglers".[22]

According to the Centre for Social Research, Uzbekistan[23] problems forcing people to migrate, displacement and refugee situations are due to an "increased threat of terrorist acts, extremism and drug trafficking from Afghanistan to Central Asia" along with governments tightening "procedures to register and to obtain legal resident status. Therefore global solutions need to be considered by wealthier countries with the capacity to influence global trends. Otherwise if fewer options are available and solutions open to asylum seekers, then they will be forced to find their own solution.

Reception arrangements - is protection available to the numbers who seek it? How efficient and transparent is the system? Fr Brian Gore, Director for Justice, Peace and Ecology notes problems gaining visas, the process is difficult, complex and contains significant problems. He highlights fundamental problems with the processing component and is critical of the system in reference to long delays for detained asylum seekers in having their claims processed.[24]

At issue is the reception and processing method sufficient and adequate to meet the needs of the number of people seeking protection, especially for those in vulnerable and unsafe situations.

Applications formerly processed under the Special Assistance Categories should be given special consideration when allocating visas under the Global Humanitarian Program.

Special Humanitarian Program (SHP)

The RCOA articulates well the overall concerns and issues with the SHP as nominated by the RCOA submission [25] stating that proposers initially need to be cognisant of the commitment and responsibility involved with sponsorship. Notably, making the connection that proposers also require sufficient resources to meet those obligations and responsibilities noting that:

"Close to 50% of all Humanitarian Program entrants receive no targeted material assistance. As so-called "linked entrants" they are dependent upon their proposers for material and settlement assistance. RCOA appreciates that by transferring some of the costs to the community in this way that this allows the Australian Government to expand both the size and selection criteria for its Resettlement Program but more can be done to ensure that proposers are better prepared and able to undertake that which, for many, can be difficult and stressful experience. Many proposers (often family members) agree to sponsor entrants despite having limited financial resources and/or little knowledge about the obligations which come with it or other refugee settlement services. In some cases linked entrants find that their sponsors can offer them little in terms of support and are left to their own devices to undertake the settlement process.

In order to enhance the level of support which proposers can offer entrants, and thus retain the present resettlement program numbers, it is imperative that proposers are better prepared, resourced and supported. This should include a pre-arrival induction program where the proposer is made aware of his/her obligations (financial or otherwise) and of what he/she is likely to experience as a proposer. The proposer needs to receive regular settlement service information updates so that entrants can be more effectively linked into the services of which they are in need.

Any system that targets material assistance to refugees and humanitarian entrants in accordance to need must allow for the fact that circumstances might lead to many linked entrants finding themselves in extremely vulnerable situations. There must be flexibility to allow for such people to receive targeted material assistance should the need arise. The post-arrival assessment model developed by RCOA in Section 2 of this submission allows for such flexibility."

Women at Risk

ACMRO endorses the RCOA submission of the 2003-04 Humanitarian Program where "15% should be devoted to Women at Risk entrants".[26]

Non-government organizations, including church-based, have the capacity at international and national level to cooperate through shared information and arrangements in areas of common interest and concern to effectively identify and select women at risk for settlement in Australia.

The government should accord high priority to the processing of cases from regions where people are residing at risk or are in dire need.

Countries of first asylum need continuing assistance and support through aid and related measures in coping with refugee outflows from neighbouring countries.

To address the problems and barriers many women face in accessing protection, health and associated services, providers within the region could collaborate to establish mechanisms and networks to assist with identification and to share information about the program.

There should be a person with expertise in each Australian Embassy with responsibility for the processing of applications for women at risk. This person should be familiar with the local situation and have an understanding of social and cultural circumstances and factors that cause women to be at risk.

In recognition of the problems and barriers faced by women in travel and the lodgement of applications, special consideration should be given to make the process culturally and socially relevant, well known and more accessible, accountable and responsive to women at risk.

Overseas Processing Problems

The problem exists not with the selection criteria but with insufficient resettlement places - the number of people of concern to the UNHCR is disproportionately high to the low number of places available in resettlement countries.

Long term planning of a flexible humanitarian program is necessary so it can adapt and is equipped to respond to fluctuations in migration as demonstrated with the recent flow of people from Afghanistan seeking asylum.

To enable a major improvement to procedures would be to have sufficient staff to cope with the number of applications. It could be an advantage having more posts in accessible locations and closer to refugee source areas.

Greatest Need for Resettlement!

The difficulty in determining those in greatest need for resettlement is accepted. DIMIA processing posts need to work more closely with UNHCR and other international agencies such as the International Catholic Migration Commission (ICMC) in order to administer a program that is more flexible and better able to respond to the changing location of refugee generating areas/zones.

Overseas selection processes and on-arrival settlement services could well be enhanced and more effectively identify humanitarian entrants' needs if more weight were given to community organizations' concerns. These organizations possess particular experience both in Australia and overseas when dealing with displaced people and their need. Volunteers have historically been the life-line for migrant and humanitarian entrants. There would be great benefit for DIMIA to recognise the potential for partnership arrangements, for example in programs such as regional relocation.

Improvement is required to increase access to processing posts for refugees as well as an overall speeding up of applications once they are received. However it would be wrong to diminish the significance of persons seeking protection by making comparisons and judgements to determine the 'greatest need'.

Repeat Applications

By increasing the humanitarian program to be responsive, flexible and adaptable to the need and fluctuations would address and limit the need for repeat applications. There needs to be sufficient places available to prevent repeat applications.

What is the rate of repeat application and acceptance rates?

We support the recommendation made by the NCCA[27] and share the caution that placing restrictions on repeat applications should only be considered if the primary application was without doubt comprehensive and complete. This however appears to be somewhat fictional given the fluidity of the circumstances for many claimants who may have the opportunity to provide new information in support of their claim. The issue raised assumes that the circumstances surrounding the application process were ideal and beyond question - that the applicant was able to submit all the correct information necessary in the first instance along with having the necessary and appropriate assistance and support. At issue is, whether barriers existed and prevented complete disclosure of information such as a sharing of cultural understanding and values; language; social mores and stigmas that may prevent direct and open communication. Like the NCCA, we caution this approach given that it assumes a complete, comprehensive and perfect application is made in the first instance, which is then submitted in an ideal atmosphere with perfect and total assistance and understanding of the process.

Supporting Settlement Volunteers

To provide support to assist volunteers in settlement work they should be included in the consultative and program planning process.

Provide support and training for agencies employing volunteers.

Consider funding those agencies or Migrant Resource Centres to employ a volunteer coordinator to train, resource and support volunteers. Volunteer coordinators could be located in regional areas' community or neighbourhood centres to support:

- Cross cultural training;
- Information on services, systems and processes;
- Access to a working space, telecommunications and administrative support;
- Identification and legitimacy to advocate on behalf of entrants; and

Reimbursement for costs incurred in supporting entrants.

IHSS Evaluation

Many Church agencies have registered their concern with the lack of clearly defined arrangements, processes and management with the critical change-over from the former to the current IHSS model. As a result of this mismanagement, many agencies have been de-motivated to be part of the new structure.

To enable greater involvement and to encourage participation the issue of contract lengths and the consultative process with service providers and volunteers should be incorporated and be part of the overall strategic planning. The notion of including those involved in the service delivery is equally true for an effective evaluation process. As the NCCA states "it should be broadly conceived, independent, open, accountable and encouraging of both community"[28] and agency.

Education and Information

The Pope wrote for the World Migration Day 1996 that "In the modern world, public opinion is often the chief rule that political leaders and legislators prefer to follow", clearly stating 'It is very important that public opinion be properly informed about the true situation in the migrants' country of origin, about the tragedies involving them, and the possible risks of returning'. The duty of information is therefore to help the citizen to form a true picture of the situation, to understand and respect the basic rights of others and to assume his share of responsibility in society and at the level of the international community".

Community approval and support by the Australian community is predicated on the Government's responsibility and how it approaches the issue. Australians are entitled to know and understand fully the events and circumstances why people seek refuge and how many are desperate and forced to use people smugglers as they have little alternative if the conditions are such in countries of first asylum that provide little or no security. We agree with the UNHCR that discrimination should not be used to belittle asylum seekers. The terminology of asylum seeker and refugee should be explained, and the use of negative terms such as illegal, queue jumper should be discouraged. Refugees should be acknowledged, respected and treated with dignity. Refugees and asylum seekers have rights; which are enshrined in law, in defence of the human dignity of asylum seekers, the Australian community equally has the right to be informed of such rights in order to encourage broader community approval of refugees and asylum seekers. Those rights recognised in various instruments of international law should be made known and that the full range of entitlements to human rights of refugees and asylum seekers as expressed in the various instruments of international law. They need to be emphasised again in our present circumstances in Australia. Refugees and asylum seekers have:

- the right to be accepted at the borders of the country where they seek protection and to receive a fair and prompt response to the request to be recognised as refugees;
- the right to be heard by a competent and well disposed authority and not to undergo detention while the request for asylum is being considered;
- the right to live in dignity and to receive the help necessary while the asylum application is being considered;
- the right to appeal a negative decision on the recognition of refugee status and, during the appeal, to reside in the country where protection is sought;
- the right to be reunited with separated members of their family as soon as possible, under the same family reunion rules as apply to other migrants, and without punitive discriminatory restrictions applied to any category of refugees.

Australians should be reminded that previous generosity to refugees has been of benefit to Australian society and will continue to be so. The Australian community should be encouraged to have confidence and pride in Australia's refugees. Refugees by definition, are people with courage, ingenuity and perseverance and are endowed with talents and creativity to have survived and found sanctuary. Australians respect such values and attributes, but rarely do we attribute them to refugees. It should be acknowledged that many well-known and distinguished Australians are from refugee situations.

The government is responsible for providing the Australian community with accurate information. The importance of de-linking the asylum and terrorism nexus was a recommendation made by NGOs at the September meeting prior to the Executive Committee of UNHCR[29].

Education campaigns should contain accurate statistics indicating the number of people who up until 2001[30] had arrived by boat in contrast to those overstaying visitors and other visas, and reveal why they use people movers. In order to provide a balanced view of the number of people in Australia without documentation, the number of overstayers and the source countries should be made available for any balanced debate to occur. At the same time the issue of negative and hurtful terminology should also be addressed so that asylum seekers from different religious and ethnic groups are not condemned whereas visa overstayers from cultures similar to our own, are not generally the subject of community concern or political attention.

Information and education programs should address the international issues that cause the forced displacement of people. Globalisation, an economic rational approach to governance and change in social and economic structures and how that affects the individual, has never been explained sufficiently to the Australian population.

The Edmund Rice Centre for Justice and Community Education and the School of Education at the Australian Catholic University have produced two documents entitled 'Just Comment': Debunking

Myths about Asylum Seekers', Special Edition September and October 2001. Both are recommended as a beginning to the process of educating Australians on asylum seekers.

Encouraging Migration to Regional Australia

The current response by many Australian to asylum seekers demonstrates a concern and a desire to adopt a positive approach to welcome those seeking asylum into communities and towns. As an example, Rural Australians for Refugees has groups in NSW, Victoria and Queensland, the aim in 2002 was ". to have a dozen or so towns that are Welcome Towns willing to sponsor and care for refugee families until they are on their feet".[31] Solutions and ideas have been developed by regional community members - these concepts could be considered and developed in consultation with government.

Temporary protection visa holders are discouraged from settling in regional and urban areas as the conditions of the visa renders them ineligible to gain employment or skills training programs with restrictions or no access to the usual settlement services.

The response given above to 'How can we encourage broader community approval of refugees?' addresses some of the issues preventing acceptance for humanitarian entrants in regional areas. Migration to regional areas is dependent on employment opportunities, educational and support facilities, ethnic and cultural understanding and acceptance.

Migration and settlement of people from different cultures, religious, backgrounds etc., has to be promoted as a positive for Australia.

Some regional areas may not be appropriate for settlement. There is a need to ensure that specialised services such as torture/trauma counselling are available. Some Church agencies have advised that humanitarian entrants who have attempted to settle in regional areas have relocated to city areas due to isolation and the desire to be in closer contact with other members of their community, and also for educational and employment related opportunities.

Employ regional workers to support existing CRSS groups and to work with mainstream services and to enhance access to services.

DIMIA should undertake a project to research the factors that either enable or prevent successful settlement for humanitarian entrants in regional areas.

Consider the findings and recommendations from the Longitudinal Survey of Immigrants to Australia[32] (especially focusing on initial settlement and location) research related to settlement and immigration. Examine the research to consider the issues and concerns identified as the barriers to relocating to regional areas.

Temporary Protection Visas (TPVs)

The discussion paper[33] cites the humanitarian program as being global and non-discriminatory. In practice the selection criteria for off-shore places appear different from those for on-shore places. In regard to the latter there is a difference in treatment in Australia for those on a temporary visa (eg visitor) compared with those who arrive in an irregular way (often without any documentation). Successful permanent visa applicants within the last group receive only TPVs with limited welfare benefits and are denied full access to English language training and sponsorship opportunities. As a result, charitable and community organizations with limited resources are challenged to provide services that should be the responsibility of the government.

A notable concern was the introduction of legislation in September 2001, which denies the granting of permanent protection visas for people who left a country where they stayed for more than 7 days, and where they could have sought and obtained effective protection. This group will never receive permanent residency in Australia. In effect they can never bring their families to join them in Australia or be eligible to re-enter Australia if they leave for any reason. This law is insidious as it affects retrospectively those already in Australia on TPVs who had not made their application for permanent residence by the end of September 2001.

The impact of the law is well documented in a paper prepared for Rural Australians for Refugees[34] which describes the effect of the new law:

"In September last year we gained two categories of refugees with Temporary Protection Visas - those who are eligible to apply for permanent residence in Australia after 30 months on a temporary visa, and those who, no matter how long they or their children live in Australia, will never be permanent, and therefore never able to become full members of the Australian community as citizens. The latter group are those who, on their way to Australia, have stayed for seven days in a country where they could have applied for asylum (such as Indonesia). It also applies to people who were living in Australia on temporary visas but who had not applied for a permanent visa by 27 September 2001.[35]

This new legislation means that although found to be genuine refugees, they will never be able to bring their spouses and children to Australia, they can't leave the country without their temporary visa being cancelled, and if they try to re-enter Australia they will be deemed illegal arrivals and will face detention again and deportation. It also means they are denied the right earlier provided to asylum seekers, to have the decisions made by administrators reviewed in the Federal and High Courts".

Unauthorised arrivals found to warrant Australia's protection should be granted permanent protection visas and settlement services in accord with those who initially enter lawfully.

Church agencies and charitable organisation have had a significant role in providing support to refugees granted TPVs. Those agencies, along with the Bishops' Committee for Migrants and Refugees[36], expressed their concern with the Government's response to people arriving in Australia irregularly who subsequently seek protection visas. They have also expressed their concern with the methods of detention and with the limiting conditions of the temporary protection visas. ACMRO has concern with the rationale behind the TPVs when an asylum seeker is deemed to have refugee status and is then provided with only temporary protection.

Practical issues affecting TPVs holders:

People with TPVs do not have access to the full range of support services available to other refugees. They have a high level of mobility and no processes are established to ensure that they are linked with the necessary health services.

The refugee experience: the impact of detention in Australia; ongoing separation from family; barriers and isolation from the general community; and an uncertain future with the granting of the TPV - all these factors contribute to existing or new emotional or mental health problems. Extensive and conclusive studies found detention can intensify pre-existing trauma for asylum seekers[37].

The denial of the basic right of family reunion to TPV holders is fundamentally wrong and opposes the accepted social norm of the need of the support and unity of the family. According to the RCOA[38] it is questionable and unfounded whether the denial of family reunion is a disincentive of would be asylum seekers.

Restricting holders of TPVs to access work, places them in a vulnerable situation, as they do not have entitlements to AMEP classes and therefore they are without English language and may be susceptible to exploitation by unscrupulous employers. The RCOA states TPVs have limitations to access settlement services and entitlements and generally "creates on-going hardship for the refugees; exacerbates divisions within the community; and compromises the viability of settlement services.[39]

Lack of information for some service providers concerning people with TPVs has resulted in their encountering barriers, hostility and ignorance about their situation.

Detention

ACMRO was joined by the Australian Catholic Social Justice Council in welcoming changes[40] towards a more humane treatment of asylum seekers in detention, notably a willingness to release women and children into the community. However, we note this as a first step and would appreciate clarification on the process and what this means in real terms.

ACMRO supports:

Adoption of the concept of an alternative detention[41] method to the current practice.

Improvement of conditions and treatment for detainees as recommended by the Flood Enquiry, 2001.

Implementation of the Senate report into the Refugee and Humanitarian Program "A Sanctuary Under Review[42]".

That detention policies are not designed to use asylum seekers as a means of deterring others from seeking asylum in Australia.

Many Catholic Church agencies have requested that the following recommendations be made concerning the current regime of detention:

That improvements are needed to speed up the processing of applications for detainees and to ensure that the methods are transparent and the status of claims are made known to the detainees. This approach would prevent many of the desperate actions detainees have recently taken. The President of the Australian Catholic Bishops Conference in response to the situation in detention centres "called on the Australian Government to re-assess procedures dealing with asylum seekers in detention centres.[43] ACMRO urged that the "system of mandatory detention of asylum seekers be seriously reviewed" and to work more closely with NGOs experienced "with conditions and treatment in detention centres"[44]. We also have concerns with the reintegration of Afghani asylum seekers to return home and support the view of the comments made by the RCOA that the "complexity of the situation"[45] in Afghanistan suggests that it will be a long time before safety can be assured.

That there be provision of a secure and a less prison-like environment.

That adequate numbers of health professionals be employed to assist people to cope with detention conditions and to have appropriate support to treat torture and trauma, grief and loss, and dislocation.

The preferred tenderer 'Group 4' should receive cross-cultural training along with information about UNHCR and its programs and the reasons why people seek refuge i.e. the problems in refugee source countries. Potential conflicts and tensions between staff members and detainees should be minimised with adequate supervision of trained members.

In order to redress any negativity associated with asylum seekers, the correct terminology should be used for both those seeking protection and the detention centres, both of which have negative social connotations. Government should be responsible and treat with care the use of language "Asylum seekers are often called 'illegal immigrants'[46] and 'boat people' or 'queue jumpers'".

Children in Detention

The comments made in our submission to the Human Rights and Equal Opportunity Commission support our objection and deep concern for the welfare of children in detention and we believe the ongoing detention of children asylum seekers and their families is reprehensible and challenges our notions of dignity, protection and adherence to the rights of the child[47]. Our concern is generated from immediate advice received from Catholic Pastoral workers who regularly visit children in detention. We welcome the positive aspects included the Woomera trial of allowing mothers and children into the community and to participate in activities with other members of society. The president of the Australian Catholic Bishops Conference noted certain behaviour by children in detention highlights how desperate the situation for children in detention is and that they should be released.[48]

We continue to support the recommendations made in a joint letter to Minister Ruddock of 22 November 2000[49] that children not be detained for periods of time beyond security and health

checks, that given the ongoing concerns with children in detention it is time to seriously consider that "several reforms need to be made to the treatment of children in detention".

The Australian Catholic Bishops Conference media statement[50] of 4 December 2002 welcomes the initiative by the government to release children from detention, particularly the removal of "unaccompanied children from the high security environment of detention. The Bishops were also "encouraged by the opposition's policy of processing asylum claims within 90 days and keeping whole families together in alternative detention arrangements".

Refugee Review Tribunal

ACMRO opposes the imposition of post-decision fee of \$1000 for unsuccessful Refugee Review Tribunal (RRT) claims. We believe that people who have a real claim for refugee status, should not be deterred, discouraged, or psychologically impeded from making an appeal to the RRT because of fear of incurring the fee and is out of character with the purpose and spirit of the Refugee Convention - which was designed to illustrate the treatment asylum seekers and refugees ought to receive.

Appendix A

This submission is made in context to the guiding principles of Catholic Social Teaching

Catholic Social Teaching

The moral and ethical underpinnings of the basis of this submission are made in context to the principles identified in Catholic Social Teaching. Many of the principles at stake are given practical expression by the community of nations in international human rights law. The Catholic Church's extensive international experience in assisting and protecting the dignity of refugees, asylum seekers and migrants has led it to strong support of the international laws relating to the rights of such groups.

The Catholic Church in Australia, as elsewhere, has a long history of welcoming and assisting migrants, refugees and asylum seekers. As the Australian Catholic Bishops' Conference recently affirmed:

The Catholic Church in Australia, through the Catholic Immigration Offices at national and state level, religious institutes, Church Organizations, and many dioceses and parishes, has taken and continues to take important initiatives to help refugees and asylum seekers. These have ranged from intervention at the policy and advocacy levels to providing refugees, asylum seekers, and those who have been granted Temporary Protection Visas, with advice and assistance with housing, employment, clothing, friendship, support and pastoral care.[51]

The philosophical basis for the assistance and advocacy of Catholic agencies in relation to asylum seekers and refugees are to be found in the scriptures and in Catholic Social Teaching.

Catholic Social Teaching sums up the teachings of the Catholic Church on social justice issues. It is the effort to bring the light of the Gospel to bear on the issues we face in the social dimensions of our lives.

This body of teaching promotes a vision of a just society that is grounded in biblical revelation, the teachings of the leaders of the early Church, and the wisdom gathered from experience of the Christian community as it has responded to social justice issues through history. As a formal body of teachings the social doctrine has developed markedly in the nineteenth and twentieth century.

Church documents such as encyclical letters, pastoral statements, and pastoral letters are the main sources of social teachings. Some of these documents, such as Papal encyclicals, are international in scope and quite general. Others, for example, pastoral statements by local Bishops and national conferences of Bishops, look in detail at particular issues in particular places.

An extensive body of Catholic teaching on asylum seekers exists at the local, regional and international levels.[52]

Key Principles

The following principles from Catholic Social Teaching, though religious in nature, are closely related to customary international human rights law:

The primacy of human dignity:

.Every human being is made in the image and likeness of God and has an inalienable and transcendent human dignity which gives rise to human rights.

.People are always more important than things. People are never a means or an instrument to be used for the benefit of another.

The Preamble of the Universal Declaration of Human Rights (UDHR) also affirms the inherent dignity and inalienable rights of the human person.

The unity of the human family:

.Every human person is equal in dignity and rights. Every human community, every race and culture is equal in dignity and rights. The human family is one because we are all children of the one God.

This principle is echoed in Article 1 of the UDHR.

The universal destination of goods:

.God intended the goods of creation for the use of all, and so everyone has a right to access the good of creation to meet their needs.

UDHR articles 22 and 25 also reflect a right to the things needed for survival.

Solidarity and the common good:

.We are all really responsible for each other and must work for social conditions which ensure that every person and every group in society is able to meet their needs and realise their potential.

.Every group in society must take into account the rights and aspirations of other groups, and of the well being of the whole family.

The need to take into account the rights of others and the importance of community for human flourishing is affirmed in UDHR articles 28 and 29.

The purpose of government:

.Governments must protect, foster and promote the human rights of all people and all groups. Such rights are civil and political as well as economic, cultural and social. Governments must act not only in the interest of particular groups, but for the good of all. They must intervene in social and economic life to

establish conditions that help each person and each group to achieve their potential as freely and fully as possible.

.The basis, foundation and end of the state is the service of the human person. The interest of the person is paramount, rather than the interests of the state or national security.

Thinking along similar lines, the Preamble of the UDHR acknowledges respect for human rights as the foundation of freedom, justice and peace in the world.

Relating these general principles to the concrete situation of asylum seekers and refugees, the ACMRO believe that Australian policy should observe the following ethical norms:

§ Australia, as part of the international community, should undertake its responsibilities towards refugees voluntarily, and in the spirit of humanitarianism.

§ As a wealthy and stable nation, we share a responsibility for the weakest in the world community.

§ Australia is entitled to protect its territorial integrity in ways that are consistent with its international obligations and undertakings and its domestic law and legal principles.

§ Australia's international human rights law obligations should apply equally in all parts of Australia's territory.

§ No refugee or asylum seeker should be subject to punishment, mistreatment or other violations of human rights to deter others from seeking asylum in Australia.

§ Refugees and asylum seekers who are intercepted on their way to Australia must be treated with respect for their dignity without subjection to physical violence or threats of physical violence.

§ Under no circumstances should a refugee or asylum seeker be diverted to a country that is not party to the 1951 convention or to major human rights treaties, or to a country that cannot support their presence with dignity.

§ Aid funds should not be diverted from development projects to underpin the detention and processing of asylum seekers in Australia or in other countries.

§ The number of resettlement places available under the off-shore humanitarian program must not vary according to the number of on-shore asylum seekers, since the two fill different needs and roles.

§ Non-citizens in Australia should be detained only after they have been individually assessed as a risk to public safety or security. All detention requirements must be reviewable by a court and must be for the shortest time possible.

§ Any asylum seeker in detention is entitled to be treated humanely with respect for his or her human dignity.

§ Asylum seekers who are determined to be in need of protection shall be entitled to family reunion.

§ Asylum seekers found to be in need of protection should be granted permanent visas.

These norms have been developed by the ACMRO and Australian Catholic Council Social Justice Council working together with religious institutes that are engaged in practical work with asylum seekers and refugees in Australia and internationally.

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