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## **SUBMISSION ON AUSTRALIA'S HUMANITARIAN PROGRAM FOR 2009-10**

### **From the Australian Catholic Migrant and Refugee Office**

The Australian Catholic Migrant and Refugee Office (ACMRO) would like to commend and acknowledge the significant policy changes which have taken place since the November 2007 Federal election. Some of the more significant changes introduced include the ending of the Pacific Solution, the abolition of temporary protection visas, changes in immigration detention systems and the reviewing of the citizenship test.

While we acknowledge and welcome this recent policy shift in the refugee policy area, there are still areas of concern which deserve to be addressed and discussed. This includes the opening of the new detention facility on Christmas Island, children in detention, the ongoing linking of off-shore and on-shore applicants in the humanitarian program, and the size and composition of the humanitarian program. In this submission we will discuss some of these areas of ongoing concern as well as putting forward suggestions on how Australia can further improve its approach to refugee protection.

### **The Size and Composition of the Refugee and Humanitarian Program**

#### **Program size**

Despite the apparent and continuing need for resettlement, the humanitarian component of the overall migration program has actually decreased as a percentage over the last couple of years. While the general (non-humanitarian) migration program has grown to accommodate migrations based on family ties, skilled migration and business imperatives, the humanitarian component has been more than halved from a figure of 17% of the total intake in the 2000/01 year to just less than 7% in 2008/09.<sup>ii</sup>

As a wealthy nation and with a population growth in decline, Australia has the capacity to provide for an increase in its annual humanitarian intake. Because of our remote location, only a relatively low numbers of asylum seekers reach Australia compared to other countries in the world. ACMRO believes that we have a moral responsibility to provide support for countries that are less fortunate and less prosperous than Australia and that are struggling to meet the needs of large numbers of refugee populations.

**ACMRO supports RCOA's recommendation that the Australian Government increase the offshore refugee and humanitarian program over five years from 13 750 places in 2009-10 to 20 000 in 2013-14.**

**ACMRO welcomes the Government's expressed interest in a multiyear planning for regional programs, making it easier for Australia to make a stronger and longer term commitment to resettlement.**

#### **Contingency Reserve**

The world is becoming an increasingly volatile place, subject to sudden crises and emergencies. It is the view of ACMRO that a contingency reserve should be available to provide a substantial number of resettlement places in the event of emergencies. These places should be allocated if required, independently of the annual intake quotas. This means that these



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designated emergency resettlement places should be added to the current programme, rather than being taken, or borrowed, from existing or future humanitarian intakes.

Providing a continuous Contingency reserve would enable the Government to respond quickly and appropriately should an emergency arise. Current examples of people with international protection needs which may apply for contingency places include Sri Lankans, Burmese and Iraqis (this is just to mention a few and should by no means be seen as a complete list of people deserving our protection). In the case of Iraq, one could argue that, since Australia has taken a strong military and political presence in Iraq it should display a similar commitment to responding to the major flow of refugees displaced by the ongoing military and political turmoil. It is Australia's moral responsibility to share the burden of the situation by accommodating the protection needs of these displaced people.

**ACMRO recommends that there be a provision in the humanitarian program for a Contingency Reserve.**

### **De-linking the Humanitarian Programs**

The linkage between the onshore and the off shore component was only introduced in 1996. As a result, any increase in the allocation of on-shore places through successful asylum claims has effectively meant a decrease in places available for off-shore applicants.

Over the last decade we have seen how certain groups have exploited this new regime labelling onshore refugees "queue jumpers" and "economic refugees" amongst many other things and portraying them as taking places from "more genuine and worthy" off shore refugees. ACMRO would like the program once again to be de-linked to insure that the quota is not used to discriminate against asylum seekers on shore or creating misconceptions about our international protection responsibilities.

While ACMRO strongly commends Australia's accommodation of a large number of off shore refugees and humanitarian entrants, we also wish to stress the point that settlement should be viewed as an activity that complements asylum systems in a larger refugee protection system rather than challenging the very right to seek asylum onshore.

**ACMRO recommends that the offshore humanitarian program numbers be determined independently of the number of onshore protection visas granted.**

### **Excision and Christmas Island**

ACMRO opposes the Government's continuance of policy of excision, whereby Australian territory is artificially excised to allow Australia to avoid its humanitarian responsibilities. We are also concerned about the opening of the new Christmas Island detention facility. Despite the end of the so-called 'Pacific Solution', we are still seeing asylum seekers being detained and processed off shore, far away from Australia's mainland. We are very troubled by the remoteness of Christmas Island and its effect on the ability of external groups from the mainland to monitor what is actually happening on the island. Another of our concerns relates to the fact that the island community is small and detainees find it very hard to access basic services.

ACMRO believes that all asylum seekers should have full access to legal representation and support of their own choosing, unhindered access to the media and enjoy the right to have their application for protection determined under the procedures that apply on the mainland.

### **ACMRO strongly urges the Government to**

- 1. Close Christmas Island for the detention of asylum seekers**
- 2. Afford all asylum seekers the right to have their application for protection determined under the procedures that apply on the mainland.**

### **Children in detention**

Detention is not a place for a child and should only be used as an absolute last resort. It has been well established that exposure to a detention environment can be harmful for children.

ACMRO welcomed the Minister's announcement that no children or the families of these children would be detained in an immigration detention facility. Therefore we are very concerned about the findings made in the Australian Human Rights Commission's 2008 *Immigration Detention Report*<sup>iii</sup> concerning the continuing detention of children. The Australian Human Rights Commission reports that while it's true that children are no longer held in immigration detention centres, they are still being held in other closed detention facilities both on the mainland and on Christmas Island.

### **ACMRO strongly urges the Government to implement the recommendations made by the Australian Human Rights Commission in its National Inquiry into Children in Immigration Detention 2004.**

### **Complementary Protection**

ACMRO is very pleased that the Government has indicated possibility of the introduction of a system of complementary protection. The concept of complementary protection refers to Australia's protection responsibilities under various Human Rights treaties other than the Refugee Convention. While we commend the Government for its engagement and hard work on this issue, we are concerned that the proposed guidelines appear to focus primarily on our non-refoulement obligations while not recognizing other possible grounds for complementary protection, such as statelessness or fleeing generalized violence or civil unrest.

### **ACMRO recommends that:**

**Complementary protection not be restricted to our non-refoulement obligations but also include other possible grounds for protection such as statelessness or those fleeing danger caused by generalized violence or civil unrest.**

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<sup>i</sup> Refugee Council of Australia, *Australian Refugee and Special Humanitarian Programme: Current Issues and Future directions. Views from The Community sector* (2006).

<sup>ii</sup> DIAC, *Fact Sheet 20: Migration Program Planning Levels* (2008).

<sup>iii</sup> Australian Human Rights Commission, *2008 Immigration detention report: Summary of observations following visits to Australia's immigration detention facilities* (13 January 2009).