

# **Questions for Australia in the Modern Refugee Debate.**

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Sunshine Coast Business Council Conference  
Thursday, 5 November 2015

## **CONTEXT**

Let me start by putting Australia's concerns about refugees and asylum seekers in some context.

The latest statistics from the United Nations High Commissioner for Refugees show that the number of people forcibly displaced in the world due to persecution, conflict, violence and human rights violations is now at the highest level seen since the end of World War II. There are now approximately 60 million people forcibly displaced in the world<sup>1</sup>.

Eighty six percent of the world's refugees are living in the poorer developing world with Pakistan, Iran, Lebanon, Jordan and Turkey hosting the largest number<sup>2</sup>. Only 14% are in wealthy developed countries like Europe, North America and Australia. Australia ranks 70<sup>th</sup> out of 140 countries for its contribution to hosting refugees in 2014 expressed in terms of the ratio of refugee population to our wealth measured in terms of GDP per capita<sup>3</sup>.

People travelling by boat to claim asylum is hardly a uniquely Australian problem. In December 2014 the UNHCR reported that in the preceding 11 ½ months more than 348,000 refugees and migrants had undertaken dangerous sea journeys in an effort to get to places of safety or to escape deep poverty<sup>4</sup>. As this figure included only 207,000 crossing the Mediterranean and we know that more than 700,000 asylum seekers have arrived in Europe this year<sup>5</sup>, most of whom crossed the Mediterranean, we can again expect that the current figure is very much higher.

The High Commissioner has said:

*'A majority of the people on these boats are not economic migrants, but fleeing conflict and persecution, desperately looking for a place to live in peace. The growing number of women, children and elderly people being rescued is testimony to this fact. If entire families are risking their lives at sea today, it is because they have already lost everything else, and see no other option to find safety.'*<sup>6</sup>

The Special Rapporteur for Migrant Rights has stressed that attempting to seal borders and the over-emphasis on the securitizing of borders is not

going to reduce irregular migration in the long run and will not reduce smuggling operations – although it may divert them to other borders. Rather he has pointed out that it is prohibition policies and practices that create the lucrative market for smuggling operations in the first place.<sup>7</sup>

The Commonwealth Parliamentary Library has published a research paper about refugees and asylum seekers.<sup>8</sup> This paper acknowledges that there is no orderly queue for asylum seekers to join and that only about 1% of those who are recognized by UNHCR as refugees are subsequently resettled to another country.

So far as Australia is concerned, the paper shows that most asylum seekers who come to Australia arrive by air with valid visas and then go on to claim asylum; most do not come by boat.

It also discloses that although boat arrivals continue to be the focus of public and political attention in Australia, in only two years since 2001 did the number of boat arrivals exceed the number of asylum seekers who arrived by air. The first year that this happened was 2011-12 when the numbers were nearly identical with 7063 asylum seekers arriving by air and 7373 arriving by boat.

The other year was 2012-13 when 8480 arrived by air and 18,365 arrived by boat.

Not everyone is aware that those who come to live in our country under the Refugee and Humanitarian Program constitute only a small percentage of our total migrant intake. In 2013-14, for example, 190,000 migrants came to Australia independently of that program, the same number as in the previous year. India, China and the UK (in that order) were the top three source countries of our migrant intake with migrants from those countries together making up nearly 50% of the entrants.<sup>9</sup>

In the same year, 2013-14, only 13,768 individuals were granted the right to live in Australia under the Refugee and Humanitarian Program and only 2,752 of those had made their applications while already in Australia.<sup>10</sup>

## **AUSTRALIA'S HUMANITARIAN RECORD**

It will not surprise you to learn that I am critical of the policies of successive Australian Governments towards refugees and asylum seekers who have arrived irregularly by boat. However, before I go into that I do want to acknowledge that Australia does have a proud record of humanitarian

resettlement. Australia, or its predecessor colonies, has been settling refugees for over 170 years with the first identifiable group coming to my home state of South Australia in 1839 to escape restrictions on their rights to worship in Prussia.

Australia, a country whose very character has been formed by immigrants, has resettled around 800,000 refugees since World War II, building one of the world's most successful multicultural societies.<sup>11</sup> Today, Australia continues to have a generous resettlement program and, along with the United States and Canada, has consistently ranked among the world's top three resettlement countries.<sup>12</sup> Australia is also a generous donor to the UNHCR – although this generosity pales when measured against the amounts that Australia currently spends detaining asylum seekers who arrive by boat.

## **QUESTIONS**

Against this background what are some of the questions that we, as Australians or Australian residents, might want to ask about our country's policy towards refugees and asylum seekers who arrive by boat?

### **Mandatory Detention.**

The first, I suggest, is why are we continuing to hold refugees and asylum seekers, and particularly children, in indefinite detention?

Australia has had a policy of mandatory detention for refugees and asylum seekers who arrive by boat since 1992. We are the only country in the world where mandatory detention is enshrined in legislation.<sup>13</sup>

On 13 August 2012 the Australian Government additionally reintroduced a system of third country processing for asylum seekers who arrive by boat. Under this system asylum seekers who arrive this way, including children, must be transferred to a third country as soon as is reasonably practicable, unless the Minister for Immigration decides to exclude them from transfer.

As a result of this policy, as at 30 June 2015 there were 88 children detained on Nauru.<sup>14</sup> I will talk more about this shortly. As at the same date the number of children in closed detention facilities in Australia was 127.<sup>15</sup> The number of adults in immigration detention in Australia was 2,013 and the number held in third countries was 1,600.<sup>16</sup>

I have been into Australia's immigration detention centers. Each visit left me feeling deeply disturbed. It is impossible not to be moved by the obvious stress and anguish of those being detained. Many are visibly disturbed with some obviously mentally ill. Detainees say things like "I feel that I am dying from the inside out" or 'it would have been better to have died as sea'. The uncertainty about their futures and the loss of all control over their own lives is particularly difficult for them to bear. Most do not understand why, if they have broken no law, they are being held in prison-like conditions in a country that they had thought of as a freedom loving democracy. Parents despair about their inability to give their children a decent life

The 2014 report of the Australian Human Rights Commission into the impact of detention on children make disturbing reading. Its conclusions are supported by other sources.

The United Nations High Commissioner for Refugees (UNHCR) visited the Centre in Nauru in October 2013 and concluded that:

*the harsh and unsuitable environment at the closed [Centre on Nauru] is particularly inappropriate for the care and support of child asylum-seekers...no child, whether an*

*unaccompanied child or within a family group, should be transferred from Australia to Nauru.*<sup>17</sup>

A doctor who worked in Nauru for six weeks between February and March 2014 stated that *'every day ... there were teenagers and unaccompanied children who were either on suicide or self-harm watch'*.<sup>18</sup>

The Moss Review, which was commissioned by the Federal Government itself, found that between October 2013 and October 2014, 17 children engaged in self-harm (including lip stitching by 16 and 17 year olds, and one attempted hanging). The youngest child involved in self-harm was 11 years old.<sup>19</sup>

A joint statement made in June of this year by 15 Peak health bodies called on the Government *'to immediately release all children and their families from immigration detention in Australia and Nauru...our organisations represent a wide range of health professionals who have seen, first-hand, the devastating impact of detention on the health and wellbeing of children and their families.'*<sup>20</sup>

As recently as October doctors at the Royal Children's Hospital in Melbourne determined to



refuse to discharge asylum seeker children back into detention fearing that they would suffer further harm.<sup>21</sup>

There is no evidence that mandatory detention itself deters asylum seekers from travelling by boat or indeed by any other way. During the course of the AHRC's inquiry into children in immigration detention, both the then Coalition Minister of Immigration and the former Labor Minister stated that the detention of children is not intended as part of deterrence policy and they confirmed that the detention of children would not, in fact, be a deterrent.<sup>22</sup> You might have noticed that politicians in seeking to justify the present situation always compare the present suite of policies with the suite of policies of the previous government; for good reason they do not seek to justify mandatory detention alone.

Putting aside humanitarian considerations for a moment, the costs of offshore detention are extraordinary. Australia meets all of the costs associated with the establishment and operation of the offshore processing center on Nauru and additionally pays \$3000 dollar per quarter for each detainee as a visa charge. As at May this year Australia had paid Nauru almost \$29 million on

monthly visa fees.<sup>23</sup> Its contract with Transfield Services to manage the center is worth \$1.2 billion and Save the Children receives \$36 million for welfare services to minors held on the island.<sup>24</sup> Canstruct Pty Ltd received \$52 million for construction services to develop the detention facilities.<sup>25</sup> There are, of course, additional costs for things like water, telecommunications and internet infrastructure and accommodation cost for Australian staff.

Additionally Australia has paid \$40 million to Cambodia for its agreement to resettle refugees who sought asylum from Australia and another \$15 to get four refugees to that country.<sup>26</sup> It seems that no more will go to Cambodia.

The website of the Australian Parliament discloses that our combined budget expenditure in 2014-15 alone for Nauru and PNG (excluding aid contributions) is approximately \$1.2 billion.<sup>27</sup>

This is more than 5 times the entire budget of UNHCR for all of South East Asia - US\$157 in 2015.<sup>28</sup>

Surely it is time for us to question our politicians about why the policy of mandatory detention of asylum seekers who arrive by boat is being

maintained. If, as seems plain, detention is not a deterrent, do we really want the harm that it causes, particularly to children, on our collective consciences? Do we want to find ourselves, in a few years, giving yet another apology for conduct lacking in compassion that caused lasting harm to innocent children? Don't we think that the money that we are spending maintaining this system could be better spent in other ways?

## **OTHER QUESTIONS**

Other questions that we might ask our politicians and ourselves include:

- Since the issue of displaced people and asylum seekers is a global problem shouldn't we be doing more to work with the rest of the world in finding solutions? We can't effectively deal with the issue of asylum seekers alone and we like to think of our country as a good global citizen. Policies which simply shift the burdens elsewhere do not contribute to the needed global solutions. Former Prime Minister Abbott's suggestion to Europe that it might adopt Australia's policies is not only lacking in empathy and compassion, it is hardly practicable. We could use our navy to confront fishing boats and turn them back or transfer the people on them to orange life boats directed

back to Indonesia because our navy could act almost completely out of sight and, as it proved, our government could get away with refusing to answer questions by categorizing virtually everything as an 'operational matter'. Naval operations on the Mediterranean could not be cloaked in a mantle of secrecy in this way; television would bring them into homes around the world and a public backlash of sympathy for those on the boats would be inevitable.

- In any event, how do we feel about trying to ensure that the burden of hosting asylum seekers falls on underdeveloped countries, many of which can barely provide for their own populations, and on under resourced UN agencies?
- Finally, the numbers that we are presently dealing with are quite small. As I have said, we have approximately 1,688 adults and children held in offshore facilities and 2013 adults and children detained in Australian facilities. The boats have been stopped. Isn't it more than time that they were all individually assessed to see if they could safely be allowed to live in the Australian community? Except for those rare few who might constitute a danger to Australia if they were released, compassion and economic good sense surely demands that

they be released as soon as possible.

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- <sup>1</sup> <http://blogs.worldbank.org/opendata/record-number-forcibly-displaced-people-has-reached-60-million-worldwide-data-show> (viewed 9/11/15 at 10:00am)
- <sup>2</sup> <http://www.unhcr.org.uk/about-us/key-facts-and-figures.html> (viewed 9/11/15 at 1:45pm)
- <sup>3</sup> <http://www.smh.com.au/world/how-the-worlds-forcibly-displaced-add-up-20150813-giyg57.html> (viewed 9/11/15 at 11:00am)
- <sup>4</sup> <http://www.unhcr.org/5481bf796.html> (viewed 9/11/15 at 2:00pm)
- <sup>5</sup> <http://data.unhcr.org/mediterranean/regional.php> (viewed 9/11/15 at 2:00pm)
- <sup>6</sup> <http://www.unhcr.org/54882c149.html> (viewed 9/11/15 at 2:00pm)
- <sup>7</sup> <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16645&LangID=E> (viewed 9/11/15 at 2:00pm)
- <sup>8</sup> <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22library%2Fprspub%2FHGNW6%22>
- <sup>9</sup> <https://www.border.gov.au/ReportsandPublications/Documents/statistics/migration-trends13-14-glance.pdf> (viewed 9/11/15 at 2:10pm)
- <sup>10</sup> ibid
- <sup>11</sup> <http://www.hurights.or.jp/archives/focus/section3/2014/03/asylum-seekers-refugees-and-human-rights-the-case-of-australia.html> (viewed 9/11/15 at 2:30pm)
- <sup>12</sup> ibid
- <sup>13</sup> [http://www.aph.gov.au/About Parliament/Parliamentary Departments/Parliamentary Library/pubs/BN/2012-2013/Detention](http://www.aph.gov.au/About%20Parliament/Parliamentary%20Departments/Parliamentary%20Library/pubs/BN/2012-2013/Detention) (viewed 9/11/15 at 2:30pm)
- <sup>14</sup> <https://www.humanrights.gov.au/immigration-detention-statistics>
- <sup>15</sup> ibid
- <sup>16</sup> ibid
- <sup>17</sup> <http://unhcr.org.au/unhcr/images/2013-11-26%20Report%20of%20UNHCR%20Visit%20to%20Nauru%20of%207-9%20October%202013.pdf>
- <sup>18</sup> <https://www.humanrights.gov.au/publications/forgotten-children-national-inquiry-children-immigration-detention-2014/12-children#fn542> at 12.8 (viewed 9/11/15 at 2:40pm)
- <sup>19</sup> <https://www.border.gov.au/ReportsandPublications/Documents/reviews-and-inquiries/review-conditions-circumstances-nauru.pdf> at 3.92 (viewed 9/11/15 at 2:40pm)

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- <sup>20</sup> <https://www.humanrights.gov.au/our-work/asylum-seekers-and-refugees/publications/children-immigration-detention-statements-health> (viewed 9/11/15 at 2:40pm)
- <sup>21</sup> <http://www.abc.net.au/news/2015-10-11/royal-childrens-hospital-doctors-children-detention/6844458> (viewed 9/11/15 at 2:45pm)
- <sup>22</sup> The Forgotten Children: National Inquiry into Children in Immigration Detention 2014, Australian Human Rights Commission, Foreword.
- <sup>23</sup> <http://www.theguardian.com/australia-news/2015/may/22/australia-has-paid-nauru-29m-in-visa-fees-to-keep-asylum-seekers-in-detention> (viewed 9/11/15 at 2:50pm)
- <sup>24</sup> ibid
- <sup>25</sup> ibid
- <sup>26</sup> <http://www.smh.com.au/world/refugee-wants-to-quit-cambodia-following-australias-controversial-55million-deal-20150906-gjgg25.html> (viewed 9/11/15 at 2:55pm)
- <sup>27</sup> [http://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/pubs/rp/rp1516/Quick\\_Guides/Offshore#\\_Cost\\_of\\_operating](http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1516/Quick_Guides/Offshore#_Cost_of_operating) (viewed 9/11/15 at 3:00pm)
- <sup>28</sup> <http://www.abc.net.au/news/2015-07-14/cost-of-offshore-processing-united-nations-fact-check/6609764> (viewed 9/11/15 at 3:00pm)