

A new approach to asylum seekers and refugees in Australia



The Greens are committed to a long-term, practical and humane approach to asylum seekers and refugees that rejects the failed policies of detention of children, indefinite detention and off-shore processing. We need a policy that upholds Australia's commitments to international law and human rights.

LONG-TERM POLICIES

Community based approach

In 2009, 43.3 million people were forcibly displaced by persecution and conflict¹. Australia's response to this global tragedy is to spend more than \$2 billion on border protection and the Christmas Island detention facility to prevent a tiny proportion of the world's asylum seekers from seeking legitimate refuge in our country.

The offshore detention of asylum seekers in a zone excised from mainland Australia is one of the most damaging aspects to our international standing. The political bickering between the Government and Coalition over the management of asylum seekers on Christmas Island obscures the fact that this policy is a breach of Australia's international obligations to under the Refugee Convention.

The remoteness and isolation of the Christmas Island detention facilities from mainland Australia limits access to sufficient health facilities, torture and trauma counselling and resources for both island residents and detainees.

This 'out of sight out of mind' approach to asylum seekers detained on Christmas Island is not only highly inappropriate and impractical, but also a financial burden.

The Greens want to see a portion of the estimated \$973.6 million over four years earmarked for maintaining offshore processing on Christmas Island, spent on community reception centres – facilities that will provide greater transparency, practicality, and fulfil our international obligations.

The community reception centres, located in mainland cities, will conduct full health and security checks. This community based approach would also see an end to the cruel policies of mandatory and indefinite detention, which puts vulnerable people who have suffered torture and trauma at further risk.

¹ UNHCR's 2009 Global Trends <http://www.unhcr.org/4c11f0be9.html>



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Asylum Seeker Support Fund

The Australian Government currently offers minimal funding to key service providers assisting asylum seekers and refugees.

The Greens are proposing a grants-based Asylum Seeker Support Fund of \$8 million over four years (\$2 million per year) to assist community organisations to provide essential services for refugees and asylum seekers. Community organisations would apply for a grant of up to \$100,000 to assist them in the delivery of case management, health care, emergency relief, social support and housing support. This fund would be administered by the Department Immigration and Citizenship.

The grant would be available to those community-based providers that offer the following services:

- Health
- Appropriate accommodation
- Job seeker advice
- Community orientation
- Legal advice
- Language support

Long-term, sustained support is essential for asylum seekers and refugees settling into their new communities. This fund would go some way in assisting community organisations in continuing to provide the amazing support they do to the refugee community.

PRACTICAL POLICIES

Playing a leading role in our region

If Australia is to actively engage and work with our neighbours in combating people smuggling, we need to provide a real solution – not the Pacific solution, not the Indonesian solution, not the Timor solution.



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As one of the wealthiest countries in our region, Australia must take a leading role in helping to:

- assess people’s claims quickly;
- ensure that those in need of protection are resettled swiftly; and
- ensure that for those that are not found to be refugees, they are returned safely.

If Australia is to play a leading role in the region we must play host to processing claims on the mainland, where the Federal Government can provide easy access to proper resources and services, and protect the rights of vulnerable asylum-seekers

It is generally agreed that the people smuggling trade exploits and puts at great risk vulnerable individuals who are in a desperate situation. The Greens differ in wanting Australia to take a key role in combating the global rise in the numbers of asylum seekers fleeing their homelands in search of protection.

Australia provides funding to International Office of Migration to operate detention facilities in Indonesia and Malaysia, yet Indonesia and Malaysia are the only two nations in our region that are not signatories to the United Nations Convention on Refugees. Aliran, a Malaysian justice organisation found that more than 3000 children who have sought asylum in Malaysia have been arbitrarily detained in that country since 2004². This stark fact highlights the danger of sending boats back without a regional agreement.

Australia must act to ensure these countries immediately sign the United Nations Convention. We cannot expect that human rights are upheld, if the rights of refugees are not even recognised or protected.

Increasing Australia’s intake of refugees

The Greens are calling for Australia to increase its humanitarian migration intake to 20,000 a year. The humanitarian migration intake has been static at around 12,000 – 13,000 since 1996–07. In 2008–09 it was 14,854, but according to the Refugee Council of Australia, Australia’s Refugee and Humanitarian program has dropped to 6.6 per cent of the total migration intake, the lowest in 35 years.

² http://www.aliran.com/index.php?option=com_content&view=article&id=1021:arbitrary-detention-of-migrant-and-refugee-children&catid=83:2009&Itemid=48

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An increase to 20,000 is called for by The Refugee Council of Australia and the Federation of Ethnic Communities Councils of Australia.

HUMANE POLICIES

No Children in detention

As at May 28 2010, there were 498 children in held in immigration detention³. Under the definition of immigration detention within the *Migration Act 1958*, it is clear that children should not be detained in any form of secure detention⁴.

As a signatory to the UN Convention on the Rights of the Child, Australia has a responsibility in upholding the the full range of human rights—civil, cultural, economic, political and social rights, which are essentially underpinned by four paramount principles.

- Non-discrimination in the applicability of children's rights (*Article 2*)
- The primacy of the consideration of the child's best interests (*Article 4*)
- The child's right to survival and development (*Article 6(1)*)
- The child's right to participation in decision-making (*Article 12*)

These principles must inform our approach to protecting the best interests of our children.

The Greens' Bill, developed in consultation with Save the Children, to establish a Commonwealth Commissioner for Children and Young People will help ensure adequate protection for all who are vulnerable and disadvantaged. Importantly, this Bill extends support to young non-citizens who have arrived in Australia without the protection and resources afforded to those with requisite visas or other authority for entry into Australia.

³ Detention statistics 28/05/10

⁴ Section 5 of the Migration Act 1958 defines immigration detention as being: "(a) in the company of, and restrained by an officer ". For full definition of immigration detention see Section 5, p.11

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Judicial Review

The Government's recent decision to suspend the asylum claims for Sri Lankans and Afghans, return to a policy of indefinite detention and re-open the desert prison at Curtin Detention Centre, highlights the urgency for judicial review of detention decisions.

Furthermore the Government's rejection of a charter of rights in Australia reinforces the need for an independent check on these new policies.

It is impossible to restore public faith in Australia's immigration detention system while the right to seek prompt, independent and effective review of detention decisions is denied.

The Greens are calling for these changes to be made to immigration law:

- A person who is detained should be entitled to appeal immediately to a court for an order that he or she be released because there are no reasonable grounds to consider that their detention is justified on the criteria specified for detention;
- A person may not be detained for a period exceeding 30 days unless on an application by the Department of Immigration and Citizenship a court makes an order that it is necessary to detain the person on a specified ground and there are no effective alternatives to detention. This is consistent with the Minister's commitment that under the new system "the department will have to justify a decision to detain – not presume detention⁵."

5 "New Directions in Detention – Restoring Integrity to Australia's Immigration System," 29 July 2008.