

# Refugee - Asylum Seeker Policy



**Where should Australia stand on refugees? Do we have a duty of care to our own citizens first before others, or should we be a halfway house to the world? It seems like we are attempting to do both.**

One thing is certain and that is we need to be vigilant as there are serious risks involved in opening our doors to the unknown. It is our governments responsibility and priority to rank the safety health and wellbeing of its own

citizens before those from without. Who would be expected to sacrifice and risk the lives of their own to administer help to outsiders they know little about or what they are capable of?

Christmas Island detention centre infrastructure should be put to good use as an off shore medical and training facility; a place where current refugees can be given work and a purpose while waiting for assessment. This should be considered instead of bringing refugees to the mainland for medical attention.

Having said this it does not mean that Australia as a compassionate nation should not endeavour to find a solution that would both assist the hardship of strangers while at the same time securing the safety of its own people.

## Refugee Convention 1951

The most important document pertaining to refugees is, the Convention relating to the status of refugees 1951 (Refugee Convention 1951). This convention initially dealt with refugees in Europe, after World War II. The Protocol of 1967 extended the scope of the convention to all refugees all over the world. Australia is a signatory to both the convention and the 1967 Protocol. Some provisions of both these documents have been incorporated into the *Migration Act 1958* and the *Migration Regulations 1994*.

### ➤ **Definition: refugee is a person**

- Who is outside his country of nationality or his usual residence
- Has a well-founded fear of persecution because of race, nationality religion, membership of a particular social group or political opinion
- and is unable or unwilling to avail himself of the protection of that country or return there for fear of persecution. – Refugee Convention 1951 Article 1A(2).

### ➤ Asylum seekers are distinguished from refugees by the fact that they are people whose claim to refuge is not yet assessed and found to be within the above definition. Assessment can be performed by a country who is a signatory to the Convention or the United Nation High commission for Refugees (UNHCR).

### ➤ **Problems with the definition:**

- The definition can very often be of a declaratory or a subjective nature. i.e. the person may claim to be within the above criteria and may have to be accepted as a refugee.
- the term 'fear of persecution', as used in the Refugee Convention, appears to have a subjective meaning/interpretation. The Convention attempts to get around this by using the term 'well founded, in order to insert a degree of objectivity. However this too seems unsatisfactory.
- Asylum seekers arrive in Indonesia or Australia (generally by boat illegally) and claim to be refugees. These claims are often difficult to assess – they don't provide documentation of their country of origin (Passports, birth certificates or other identification documents). Many claim that this is because their lives are such great threat, that they have no time to gather these documents together before having to run away.

- Many asylum seekers are brought into Australia by people smugglers who instruct asylum seekers to destroy their identification documents.
- Without identification documents, it is difficult if not impossible to verify the claimant's country of origin, age, character requirements such as criminal history or terrorist affiliations etc.
- Australian authorities are expected to accept the claims/assertion of the prospective refugee at face value.
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➤ **Obligation of a refugee:**

Article 2 of the Convention imposes certain obligation on refugees. It provides:

General obligations

Every refugee has duties to the country in which he finds himself, which require in particular that he conform to its laws and regulations as well as to measures taken for the maintenance of public order.

- Refugees and other migrants to Australia, particularly Islamic and South Sudanese migrants/refugees, very frequently do not comply with their obligations under the Convention.
- The South Sudanese community (youth and teen aged offenders), particularly in Victoria have demonstrated blatant disregard for law and order committing violent criminal offenses.
- The Islamic community in Australia has consistently refused to assimilate and integrate into main stream Australian society or conform to our laws. They have called for the imposition of sharia law in Australia to regulate their affairs. They are reported to be quietly practicing sharia law among themselves in the areas of marriage (including polygamy and underage marriage, divorce, children's matters).
- This amounts to setting up a parallel legal system, which is inconsistent to and directly in opposition to the Australian government at State and Federal levels. **This constitutes a serious undermining of the authority of the Australian government and threat to its sovereignty.**
- Welfare abusing is also widely practiced by refugees placing an unfair financial burden on the country.  
<https://www.heraldsun.com.au/blogs/rita-panahi/sharia-law-in-australia/news-story/2c577803e592a77d8962dff5594357b7>  
  
<https://www.youtube.com/watch?v=c3P4zgt9toE>
- The Convention does not provide any remedy for the noncompliance by refugees of their obligation to the host country. Under the principle of non-refoulement that is embodied in the Convention, the refugees cannot be sent back to their country of origin. The resulting position is that the host country could find itself placed in a very serious situation.

➤ **Resettlement:**

*Resettlement*' is the term used in the Refugee Convention to describe 'the transfer of refugees from the country in which they have sought refuge to another State that has agreed to admit them' (UNHCR Master Glossary of Terms, UNHCR website, June 2006). E.G: A refugee from Afghanistan who has fled to Indonesia, may require resettlement in Australia or NZ.

➤ **Acceptance of refugees in Australia:**

Australia does not have to accept all asylum seekers who have been declared as refugees by the UNHCR. This is governed by the Migration Act 1958 and the Migration Regulations 1994. The Australian Government is entitled to refuse a visa on several grounds mentioned in the migration Act and Migration Regulations. These grounds generally relate to health issues, criminal background and national security assessments.

It is this ability to refuse entry to asylum seekers and prospective refugees that protects the sovereignty of Australia.

➤ **Australian Sovereignty:**

Australia is a sovereign nation and has a legal right to protect and defend her borders from illegal intruders. **In fact the Parliament of Australia has legal obligation to the people of Australia to protect our borders from all illegal intrusion.** Australia has vigorously defended her borders against illegal arrivals in the past. (Tampa crisis)

As a sovereign nation, Australia is entitled to determine who gets to enter the country.

**Non refoulment:**

The principle of non refoulment, is at the heart of the Refugee Convention. It means in broad sense that a refugee must not be sent back to a country where he is likely to face persecution, in particular to the country of his origin. This is also a principle that places a very heavy burden on the host country as asylum seekers who are found unsuitable for resettlement (for various reason) cannot be deported to the country of origin.

Refugee convention Article 33: prohibition of expulsion or return (“refoulement”)

1. No Contracting State shall expel or return a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country

<https://www.unhcr.org/4d9486929.pdf> - read for more information

**Problems with the Refugee Convention** - Please see dot points under the headings of refugees’ obligation and definition of refugee.

- Under the Convention, the host country is entitled manage/regulate the flow of refugees into it. Whenever the Australian government has taken legislative/administrative measures to manage/regulate refugees into Australia, the UN and other international organization have heavily criticized the government for doing so. It stated that this a blatant attempt by the UN and other international organization to interfere with the sovereignty of Australia and/or coerce us(Australia) into acting in a manner that is contrary to our national interests. (2)
- The Convention provides that no penalty is to be imposed on refugees illegally entering the country. This is a derogation of Australian sovereignty and has the potential to interfere with national security.
- 2016/17 saw an unprecedented number of asylum seekers, claiming to be refugees, entering Europe, causing chaos and great hardship to the local residents. Most of these

people were single males, fleeing economic hardship in their country of origin ( if it could be ascertained.) Due to the definition of a refugee and the principle of non-refoulement they could not be deported. Even if deportation was an option, most of the asylum seekers had no identification documents, so the question would arise where to deport?

- Many Asylum seeker in immigration detention in Nauru, have refused to be resettled in the USA following an agreement reached between Australia and the US government. This is an example of refugees taking advantage of Australia's good will and generosity. The convention does not envisage country shopping by refugees for the purpose of resettlement. (5)

#### ➤ **RUAP policy:**

- Withdraw from the **Refugee Convention 1951** as it does not service Australia's interests, ie:
- National Security - concerns include but are not limited to our extensive borders which are difficult to defend; the illegal entry of immigrants due to easy accessibility.
- Article 2 of the Convention imposes certain obligation on refugees most of which is not enforceable because the mechanism to enforce it is not provided in the convention.  
See **Obligation of a refugee - (Stated above)**

RUAP would formulate and legislate a refugee Policy that safeguards:

- Australian national security.
- A program to prioritize the resettlement of persecuted Christians, Jews and non-Islamic minority groups above Islamic and communist refugees. (Currently Christians are the most heavily persecuted of all people groups)

#### **RUAP will put in place measures to assess:**

- Refugee status from an Australian perspective, taking into consideration the uniqueness of our geographical position and the limited resources to secure our borders.
- Suitability of each individual refugee for resettlement and his ability and willingness to accept and conform with our laws; if the refugee proves to be incompatible/unsuited to Australian law we would put in measures to ensure swift deportation.
- The refugee program that we implement should take into account Australia's financial ability to provide real quality assistance for re settlement, imposing ceilings or limits on the refugee intake number and assessing a refugees' ability to integrate/ assimilate into our society.

We believe it is better to train, equip and teach skills to refugees, rather than simply give out benefits, this would enable them to put into their new environment rather than taking from it. ie teaching someone how to fish is better than giving them a fish.

We will not be bound by burdensome procedures imposed by **The Refugee Convention 1951**

- **Current turnback policy remains.**
- RUAP will no longer support intake of Islamic refugees unless extraordinary circumstances exist, and it would be at the descension of the immigration minister.

## **Addendum: Nauru and Manus island Policy**

RUAP Position on the existing status in Nauru and Manus island (PNG) is:

According to the Senate estimate on the 19<sup>th</sup> of Feb 2019 there are 330 recognized refugees in Nauru and 456 in Manus Island, 786 in total.

The RUAP policy is to treat the Nauru and Manus island situation as a separate issue and distinct from procedure already out lined in our Refugee policy.

We advocate standalone widows, scrutinized and carefully assessed refugees be permitted into Australia under a strict entry visa in which all persons 16 years and over would be required to sign a contract giving assurance that they will abide by Australian Law. forgoing any customs, they may have that would be to the contrary. The contract would be a seven-year contract and would include work placements assigned to them by the state. Each person entering Australian mainland or Tasmania would be allocated a trained security Aid that is specialized in the new refugee program for Manus island and PNG. This Support person would make sure the program is enforced and anyone breaking their contract will not be permitted residency on the mainland or Tasmania. These people would be put back into detention until a suitable placement can be found for them overseas.

RUAP would plan to facilitate infrastructure that would give Christmas Island a Medical Center and health facilities, where all refugees could have additional health care and where they could be assessed and monitored before being permitted entry to the mainland or Tasmania. All Refugees will be required to follow the same STRICT ENTRY REQUIREMENTS to entry into Australia. (outlined above)

RUAP will Prioritize resettlement of families over single males.

RUAP will no longer support intake of Islamic refugees unless exceptional circumstances exist, and it would be at the descension of the immigration minister.

In closing: inheritance definitely

Our Goal is to close Nauru and Manus Island detention centers as soon as is practically possible and to transfer all persons (about a couple of hundred) that do not attain to refugee status to Christmas Island where they can maintain a reasonable quality of life. These people although kept under surveillance could be involved in work programs, the Goal being to eventually settle them overseas in a country of their choice.

(2 ) <https://www.theguardian.com/australia-news/2018/mar/02/scathing-un-migration-report- not-ideal-start-to-australias-human-rights-council-tenure>

<https://www.theguardian.com/australia-news/2017/nov/04/un-attacks-australias-inhumane-refugee-processing-system>

<https://foreignpolicy.com/2018/11/21/australias-draconian-refugee-policy-comes-home-to-roost-nauru-manus-island-offshore-detention-scott-morrison-asylum-seekers/>

(5) <https://www.abc.net.au/radio/programs/pm/reports-some-refugees-resettled-in-us-want-to-return-to-nauru/10506426->

<https://www.amnesty.org/en/latest/news/2016/08/australia-abuse-neglect-of-refugees-on-nauru/>