

# Position Paper on *The Plight of Asylum Seekers*

This paper outlines the concern of the Australian Catholic Social Justice Council (ACSJC) and the Australian Catholic Migrant and Refugee Office (ACMRO) over the plight of asylum seekers in Australia and the injustice of government policies and regulations which affect them.

The ACSJC and ACMRO hope this information will prompt wider discussion of the suffering of asylum seekers, and help readers who wish to take action and provide support.

For further information, see the ACSJC/ACMRO Background Paper, *Asylum Seekers in Australia*.

## **Asylum seekers**

Asylum seekers or refugee claimants are people who, fearing persecution in their country of origin, have come to Australia and lodged an application with the Department of Immigration and Multicultural Affairs (DIMA) to be recognised as a refugee in the hope of gaining protection from the Australian Government.

## **The issue**

The negative impact of Federal Government policy on the lives of thousands of people seeking asylum as refugees in Australia has raised serious concerns for Catholics and others of good will. The tragic plight of refugees, while not new, has reached unprecedented levels in recent times as massive political and social upheavals, wars and internal conflicts continue around the world, forcing people to migrate and to seek asylum in countries other than their own.

Much has been done to assist refugees, asylum seekers and displaced persons through the United Nations High Commissioner for Refugees (UNHCR), but new flows of forcibly displaced people continue to be created where international measures to deal with the problem have not proved adequate.

While the focus has recently turned to the human tragedy in Kosovo, a substantial number of East Timorese asylum seekers in Australia continue to live in a state of limbo, as they have no legal status and therefore no entitlements. This group continues to wait for resolution of their applications for refugee status. Many displaced people from Asia and Africa are similarly affected.

As a wealthy country with a strong democratic tradition, Australia's present policy towards and treatment of asylum seekers is not acceptable.

## **A problem of social justice**

Most western governments, including Australia, base their policy regarding refugees on narrow definitions contained in the United Nations' *Convention Relating to the Status of Refugees* (1951) and the *Protocol Relating to the Status of Refugees* (1967). These recognise as refugees only

people who flee their homes because of a well-founded fear of persecution on the basis of their race, religion, membership of a social group or political opinion.

The UN definitions, while not being wrong, fail to protect numerous others whose human rights are equally violated, allowing governments to deny them their natural rights on legal grounds.

For example, victims of armed conflicts, unstable political and economic policies, environmental and natural disasters, as well as “internally displaced persons” uprooted from their homes without having crossed an international frontier, should also be recognised as refugees and offered international protection.

## **Universal human rights**

Asylum seekers are people, and so should enjoy the whole range of human rights. The policy towards refugees in many parts of the world ignores these rights. Apart from the right to food, housing and a life free from violence, asylum seekers also have the right to education and medical care, reunification with their families, the means to take responsibility for their own lives, practise their cultures and traditions, and freedom to express their faith. They should also have the right to work so they are able to contribute to society and to support themselves.

***The ACSJC and ACMRO feel that unless there are compelling reasons to believe that asylum seekers represent a serious danger to the community, they should not be interned or detained.***

## **Refugees and Catholic Social Teaching**

The Australian Catholic Church has a long-standing commitment to upholding the rights of refugees, and has developed a firm view on the issue based on the scriptures, and papal statements spanning more than 40 years.

Catholic Social Teaching (CST) maintains that anyone whose human dignity is threatened has the right to flee, and the international community has a duty to provide assistance. This is based on a belief in the equal dignity of all human persons created in the image and likeness of God, and in the unity of the whole human family.

Underlying this belief is the conviction that the interest of the human person is paramount, rather than the interest of states or national security. The basis, foundation and end of the state is the service of the human person. So CST sees laws and policies which place national interests before the protection of the human dignity of refugees as a fundamental inversion of values.

As the value of hospitality is integral to the practice of our faith, it follows that anyone in danger who appears at a border seeking asylum has a right to expect protection. Granting asylum is not a favour to be dispensed at the discretion of the more fortunate, it is a Christian and humane duty.

CST also emphasises that many people are forced to flee by forces not specifically directed at them as individuals but rather to the community they belong to; for example, the UNHCR's criteria does not protect people escaping from generalised human rights abuses who have not been specifically and individually persecuted or threatened.

The ACSJC and ACMRO take the position that the UN definition of refugees has serious

shortcomings and should be extended. In line with the broad CST view, people and groups, out of self-preservation or preservation of the group, have the right to flee from violations of their basic rights. Anyone compelled to flee because of violations of their human rights – including their economic, cultural and social rights – is a refugee.

## **The need for change**

The plight of people seeking refugee status in Australia is worsening as the Federal Government tightens regulations covering people applying for “protection visas” as asylum seekers, and restricts access to judicial review and the right to work.

A major concern is the “45-day rule”, under which asylum seekers who have not applied for refugee status within 45 days of their arrival in Australia are not permitted to work while their cases are being considered. The ACSJC and ACMRO believe this may contravene Australia’s international obligations.

Because they do not have permission to work, people in this situation are also denied access to Medicare entitlements. Many are suffering from malnutrition and stress-related illness.

At the same time, access to legal aid has been cut back – an additional burden for people involved in sometimes complicated legal proceedings in an unfamiliar system – and the Government has made it harder to qualify for limited financial assistance under the Asylum Seekers Assistance Scheme (ASAS), (see Background Paper).

While it is true that some people have misused the system, the ACSJC and ACMRO believe “non-genuine” applicants for refugee status are a very small minority and that the hard line on asylum seekers is unfair to the many genuine applicants.

The regulations are forcing many asylum seekers to become destitute, and many now cannot afford adequate nutrition, as they are denied the right to work while their cases are being considered.

The ACSJC and ACMRO believe the Government should review the “45-day rule”, restore government financial assistance and legal aid to former levels, and grant asylum seekers the permission to work.

Simple justice requires that a fair and rapid legal procedure is used to determine the status of asylum seekers. Scrupulous respect for the principle of voluntary repatriation is essential and the onus is on governments who reject asylum seekers to ensure that such people are guaranteed a free and secure existence elsewhere.

***The ACSJC and ACMRO share a concern that the Australian Government may be in danger of breaching the principle of non-refoulement [Article 33 of the Convention Relating to the Status of Refugees]. This relates to an asylum seeker whose case is rejected and who may be forcibly returned or deported to a country where he or she could face torture, death, imprisonment or violation of basic human rights.***

Asylum seekers should be able to:

- Access adequate legal and welfare/health assistance provided by the Federal Government.
- Avoid forcible return, including deportation, to a country where they could face torture,

death, imprisonment or violation of their basic human rights.

- Be informed automatically of their entitlements to legal advice and assistance with asylum claims.
- Have the right of appeal to the courts against an adverse decision by a refugee determining body, including an administrative or review tribunal.

## **How to help**

The Catholic community and others concerned over the treatment of asylum seekers in Australia can base their actions on the Gospel imperatives of hospitality, solidarity and assistance towards the homeless. Some responses could include:

- Establish personal contact, friendship, understanding and acceptance
- Advocate in the defence of the rights of either individuals or groups
- Financial and other support for asylum seekers' assistance centres
- Raise awareness of the reason a person is seeking asylum
- Advocacy of laws that will guarantee protection for refugees
- Inform others of the realities of world events and globalisation
- Education campaigns to target racism and hatred of foreigners
- Establish volunteer groups to raise emergency support funds
- Pastoral care

## **The Australian Catholic Social Justice Council**

The Australian Catholic Social Justice Council (ACSJC) is the national social justice and human rights agency of the Catholic Church in Australia. It advises the Bishops on social justice issues in Australia and overseas; undertakes research and advocacy on such issues; educates the Catholic community about the Church's social justice teachings and their application; and facilitates the development of social justice networks within the Catholic Church in Australia.

The work of the ACSJC falls into three areas: building social justice networks; education and formation; and research, advocacy and public policy.

The ACSJC is made up primarily of lay people and its membership is drawn from each of the ecclesiastical provinces of Australia. The ACSJC is responsible to the Australian Catholic Bishops Conference (ACBC) through the ACSJC Chairman, who is also a member of the Bishops Committee for Justice, Development and Peace (BCJDP). Two other members of the BCJDP also sit on the ACSJC along with the BCJDP's Executive Secretary who is an ex officio member of the ACSJC.

Australian Catholic Social Justice Council  
19 MacKenzie St, North Sydney NSW 2060; Tel 02 9956 5811 Fax 02 9923 3440  
email <admin@acsjc.org.au>

## **The Australian Catholic Migrant and Refugee Office**

The Australian Catholic Migrant and Refugee Office was established by the Australian Catholic Bishops' Conference in July 1995. It emerged from the Federal Catholic Immigration Office and the Australian Catholic Refugee Office.

The ACMRO dedicates its efforts towards the acceptance and settlement of refugees and

migrants into Australia. It does this especially by its efforts to influence government policies in this area. It also seeks to form Catholic Church policy in Australia for the pastoral care of migrants and refugees.

Asylum seekers merit the special consideration of the ACMRO which undertakes special service in their regard, irrespective of their creed or origin.

Australian Catholic Migrant and Refugee Office  
1 Ballumbir St, Braddon ACT 2612; Tel (02) 6201 9848; fax (02) 6247 7466  
email <director@acmro.catholic.org.au>

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