



The Uniting Church in Australia  
QUEENSLAND SYNOD

**Moderator**  
**Rev Bruce Moore**

22 November 2024

Committee Secretary  
Senate Legal and Constitutional Affairs Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
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Dear Committee Secretary,

### **Migration Amendment Bill 2024**

The Uniting Church in Australia Queensland Synod welcomes the opportunity to provide a submission to the Senate Standing Committee on Legal and Constitutional Affairs Inquiry on the Migration Amendment Bill 2024. We ask the Senate Committee to recommend that the Bill not be passed.

Australia is obligated to deal with those who seek asylum from persecution in accordance with a number of international human rights conventions, to which Australia is a party. These include the *Convention Relating to the Status of Refugees*, the *Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment* and its *Optional Protocol*, the *Convention on the Rights of the Child*, and the *Global Compact on Refugees*.

These international human rights conventions support the Uniting Church in Australia's position that persons seeking asylum, must be offered a more compassionate and informed response to ensure they are treated with fairness, dignity and respect.

I would welcome future opportunities to discuss this submission further. Should you require any more information, I can be contacted on

Yours sincerely,

Rev. Bruce Moore  
**Moderator, Uniting Church in Australia Queensland Synod**



## Submission to the Inquiry on the Migration Amendment Bill 2024

### Uniting Church in Australia's position on asylum seekers and refugees

In 2015, the fourteenth Assembly of the Uniting Church in Australia resolved to adopt *Shelter from the Storm: A Uniting Church in Australia Statement on Asylum Seeker and Refugee Policy* which sets out policy principles for the protection of asylum seekers and refugees (attached in Appendix A)<sup>i</sup>.

The policy principles align with the recent five key priorities for law and policy reform for the Australian Government in 2024 and beyond, developed by the United Nations High Commissioner for Refugees:<sup>ii</sup>

1. Ensure fairness and protection for asylum-seekers arriving to Australia
2. Address the detention of refugees and asylum-seekers
3. Find solutions for all under Australia's regional processing arrangements
4. Reduce the dangers for refugees and asylum-seekers seeking protection
5. Bring refugee families together

### The Migration Amendment Bill 2024

**The Uniting Church in Australia Queensland Synod (Queensland Synod) opposes the Migration Amendment Bill 2024 (the Bill) in its entirety. The Queensland Synod asks the Senate Committee on Legal and Constitutional Affairs to recommend that the Bill not be passed.**

We note that the content of the Bill contains content from the failed Deportation and Entry Ban Bill, which stalled in the Senate earlier this year due to overwhelming community opposition. If passed, the Bill would have the following punitive consequences:

- Permanently separating people from their families and communities in Australia, preventing them from ever returning to their homes;
- Creating an expanded regime of offshore detention where people would be subjected to serious harm;
- Exposing refugees and people seeking asylum to the risk of being deported to countries where they face persecution, including people who have been through flawed and unfair legal processes;
- Reintroducing invasive monitoring conditions that infringe people's liberty and personal dignity and cause permanent harm; and
- Allowing Australia to ignore its international obligations and legal responsibility for inflicting harm.

The Bill introduces unjust powers for the Australian Government, which include:

- **Deporting people to unspecified third countries.** This could include Regional Processing Countries such as Nauru or other countries where people may face serious harm – should they not willingly go, then the Minister can re-detain them in Australia. The Bill would allow a person to be sent to a third country, even if the government of that third country might detain them or return the person to their home country, where they face serious harm.
- **Expanding the Minister's power to overturn protection findings.** Refugees who have been living in our community for years would be exposed to deportation once the Minister overturns their 'protection finding', including people who have Australian citizen family members.



- **Breaching people's privacy by collecting and sharing personal information with bodies including foreign governments.** This would include sharing criminal history information and will validate any unlawful sharing of information that may have occurred in the past.
- **Introduces a new test to impose curfew and ankle bracelets on Bridging Visa R (BVR) holders.** The new rules would again allow curfews and ankle bracelets for some people on BVRs if they're seen as a serious risk to the community. These restrictions won't apply to everyone, only in specific cases, but they still let the government use harsh measures that the High Court recently ruled unlawful.
- **The Government will be protected from being sued for damages if they cause harm to someone who they deport to another country.** These provisions attempt to protect the Government against accountability for the harm that people will suffer if sent offshore, including to Regional Processing Countries like Nauru or people's countries of origin.

The Bill applies to a wide range of people, not just those affected by recent High Court decisions. It could have broad ranging impacts for refugees and people seeking asylum on Bridging Visas, exposing them to detention, deportation, and having their personal information, including criminal records, shared with foreign governments.

- **People transferred from Nauru or Papua New Guinea (PNG) to Australia:** Many refugees transferred to Australia from Nauru or PNG hold bridging visas. Once their bridging visa expires, the government could use this Bill to deport them, even to countries where they face danger or persecution. Since their protection claims weren't assessed in Australia, they're not protected under the Bill's exceptions for people with protection findings, putting them at serious risk.
- **People seeking ministerial intervention:** Thousands of people seeking asylum are waiting for the Minister to allow them to apply for protection visas. While waiting, they're often given bridging visas that must be renewed every few months. If their visas expire, they could be detained and deported under the Bill.
- **People who are holders of other visa categories:** The Bill's broad powers for the Minister could even allow the Minister to overturn the protection findings of people who have already been granted refugee protection and deport them from Australia.



## Appendix A

### Assembly Resolution 15.23.09

Adopted by the Fourteenth Assembly July 2015

The Assembly resolved to:

(a) Adopt the statement, *Shelter from the Storm: A Uniting Church in Australia Statement on Asylum Seeker and Refugee Policy*.

(b) Affirm the commitment and actions of Uniting Church in Australia members, groups, congregations and agencies who have worked tirelessly to provide practical care and support, pastoral visits, chaplaincy and specialist services to asylum seekers in the community and in detention.

(c) Affirm the commitment and actions of Uniting Church in Australia members who have advocated for the rights and wellbeing of asylum seekers and refugees through peaceful protests, non-violent direct action, direct lobbying of politicians and education and awareness raising programs and activities.

(d) Commit itself and call on members, councils and agencies of the Uniting Church to:

(i) continue to provide practical care and support to asylum seekers and refugees in the community and in detention centres as appropriate and where possible;

(ii) continue to peacefully advocate for the rights of asylum seekers and refugees using appropriate strategies based on the 'Principles for Good Policy for the Protection of Asylum Seekers and Refugees' in the statement *Shelter from the Storm: A Uniting Church in Australia Statement on Asylum Seeker and Refugee Policy*; and

(iii) continue to promote a more compassionate and informed response to asylum seekers within the church and Australian society.

(e) Reiterate the calls on the Australian Government to:

(i) end the policy of the mandatory and indefinite detention of asylum seekers and refugees:

o initial health, security and identity screening should be limited to seven days, with children held for a maximum of 72 hours; and

o asylum seekers should reside in the community in Australia with the right to work and access to education, healthcare and other social services as appropriate while their claims are processed;

(ii) end the offshore processing of asylum seekers who arrive or attempt to arrive in Australia by boat:

o immediately release all children and their families from detention centres including Nauru, and allow them to live in the Australian community with appropriate access to funded legal advice, medical care, social services including financial support, and education while their claims are processed; and

o close the detention centres on Christmas Island, Manus Island and Nauru and bring all asylum seekers to Australia to have their claims processed while they reside in the community;

(iii) revoke the excision of territories and the mainland from Australia's migration zone;

(iv) provide permanent protection to all refugees including access to family reunion through the Special Humanitarian Program, regardless of visa class; and

(v) remove the link between the offshore and onshore program intakes.

(f) Call on the Australian Government to:

(i) implement the recommendations of the Australian Human Rights Commission report, *The Forgotten Children*;



- (ii) increase the humanitarian intake to at least 25,000 in 2016-17, and increase it again over the following years to reach 60,000 by 2020;
- (iii) act immediately to improve conditions in detention centres in Australia, Manus Island and Nauru including:
  - o the establishment of an independent monitoring committee made up of experts to regularly monitor conditions in immigration detention facilities and report publicly;
  - o the provision of safe and secure accommodation and services including water, electricity and sewerage;
  - o the provision of timely and adequate psychological, social and medical care and access to education and recreation; and
  - o the implementation of clear regulations for the appropriate training and conduct of authorised staff in immigration detention centres, an independent complaints mechanisms for asylum seekers and refugees in detention, and pathways for unbiased legal processes if staff conduct is inappropriate or if there is unacceptable use of force;
- (iv) end accelerated refugee status determination processes, except in cases of specific cohorts from source countries with recognised protection needs; and
- (v) expedite a fair and transparent refugee determination process for all asylum seekers living in the community, ensuring people have work rights, education, healthcare and government assistance to support basic living needs while they wait, access to funded legal advice throughout, and access to independent and judicial review processes.
- (g) Call on the Australian Government to work constructively with countries in the region to develop a genuine multilateral protection solution which upholds the rights of asylum seekers and refugees. This would include Australia acting to:
  - (i) end bilateral agreements pertaining to the detention or transfer of asylum seekers between Australia and our developing country neighbours such as Cambodia, Papua New Guinea and Nauru;
  - (ii) end the interception and turn-back of boats carrying asylum seekers;
  - (iii) engage in genuine multilateral negotiations, in consultation with UNHCR, for a shared regional solution to the protection needs of asylum seekers and refugees;
  - (iv) develop and fund a regional Track II dialogue on forced migration;
  - (v) reverse the decision to refuse the resettlement of refugees from Indonesia and resettle a substantial number of refugees from the region; and
  - (vi) ensure that the processing of refugee claims is fair, transparent and effective, wherever it takes place.

#### **Principles for Good Policy for the Protection of Asylum Seekers and Refugees**

##### **1. The human rights of asylum seekers and refugees should be upheld at all times.**

1.1 Everyone has the right to seek and to enjoy in other countries asylum from persecution.<sup>iii</sup>

1.2 Australia should uphold the rights recognised under, and fulfil our obligations under, all United Nations (UN) treaties that Australia has ratified, including the *Refugee Convention*, the *Convention on the Rights of the Child* (CRC), the *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT) and the *International Covenant on Civil and Political Rights* (ICCPR). The treaties should be incorporated into Australian law and Australia should ratify additional protocols.

1.3 Asylum seekers and refugees should not be discriminated against on the basis of race, gender, language, religion, political or other opinion, national or social origin, property, birth or other status.

1.4 There should be no discrimination in the treatment of asylum seekers, refugees and humanitarian entrants. Policies, including access to visas and the formulation of visa subclasses and



access to public services, social services, and settlement support, should not discriminate against people on the basis of their mode of arrival, movements prior to their application for protection or resettlement being made.<sup>iv</sup>

1.5 Asylum seekers should not be penalised for arriving without valid documentation.<sup>v</sup> The Refugee Convention assumes an understanding on the part of signatory states that there are many legitimate reasons why asylum seekers may not have documents with them.

1.6 Asylum seekers who arrive by boat must not be subject to arbitrary detention which is illegal under international law.<sup>vi</sup>

1.7 Australian law must never risk the *refoulement* of refugees or people owed protection under other treaties to which Australia is a signatory. The obligation to not *refoule* (return people to places where their life or freedom may be threatened) is one of the most important principles of international law and should never be limited by domestic law.<sup>vii</sup>

1.8 Refugees should have access to the same rights and entitlements as Australians, including access to government assistance.<sup>viii</sup>

## **2. The Australian response to asylum seekers and refugees should be based on humanitarian principles.**

2.1 Australia's policies and legislation should reflect a commitment to the rights and safety of asylum seekers and refugees. This commitment should be clearly distinguished from issues of border protection and security, and from responses to 'people smuggling'.

2.2 Asylum seekers and refugees must have their dignity upheld and be treated humanely and with respect at all times.

2.3 Asylum seekers and refugees should not be subject to cruel, inhuman or degrading treatment or torture.<sup>ix</sup><sup>10</sup>

2.4 Asylum seekers and refugees should not be subject to harsh and punitive policies and treatment in order to deter other asylum seekers and people smugglers.

2.5 Asylum seekers and refugees should never be used for political gain and their rights should never be held hostage in political processes.

2.6 Government policies and public statements should not encourage fear, racism or hatred towards asylum seekers and refugees. Language used to describe and discuss refugees and asylum seekers should be truthful, appropriate and sensitive.

## **3. Asylum seekers must not be subject to mandatory and indefinite detention.**

3.1 Detention in the migration context must not be arbitrary. A decision to detain for extended periods must be made on a case-by-case basis, should be regarded as an exceptional measure and subject to independent review.<sup>x</sup>

3.2 Asylum seekers should only be detained for short pre-determined periods of time for the sole purpose of conducting health, identity and security checks. For children and their families this should be a maximum of 72 hours.<sup>xi</sup>

3.3 A maximum limit (7 days unless there are exceptional circumstances) on the length of time an asylum seeker can be detained should be set in law and include processes for administrative and judicial review of individual cases whenever the limit is exceeded.<sup>xii</sup>

3.4 After initial processing, asylum seekers should live in the community (together with their family members) while their claim for protection is assessed.<sup>xiii</sup>

3.5 Immigration detention centres must be located on the Australian mainland and close to major population centres where asylum seekers have access to legal, medical, educational, recreational, spiritual, pastoral and other services. Offshore detention facilities (Christmas Island) and regional



processing centres (Nauru and Manus Island, PNG) should be closed and all asylum seekers and refugees transferred to the Australian mainland.

3.6 The excision of Australian territories and the Australian mainland from the migration zone must be repealed.

**4. Australia's policies and legislation should refer particularly to the rights and needs of child asylum seekers and refugees.**

4.1 The mandatory detention of children is a gross violation of their human rights. Child asylum seekers should only be detained as a matter of "last resort and for the shortest appropriate period of time" and after an independent authority has reviewed the decision to detain.<sup>xiv</sup>

4.2 All decisions about child asylum seekers and refugees should be made with the best interests of the child as the primary consideration.

4.3 Children should be treated with care and respect, never being subjected to violence or abuse or placed in situations where they may witness violence or abuse.

4.4 Children should have access to timely and appropriate healthcare and mental health support.

4.5 The specific rights of child asylum seekers, including the right to education, should be upheld. Education should be provided at the level appropriate to the age and stage of development of the individual child.

4.6 All children and their families must live in the community on the Australian mainland while their claims for protection are processed. Children and their families should not be detained in closed, offshore or remote Australian immigration detention centres or centres in regional processing countries.

4.7 Children without parents ('unaccompanied minors') must be immediately placed in the care of an independent guardian. The independent guardian should ensure that children are involved in decisions regarding their welfare and monitor their condition.

**5. The conditions of detention must be humane and uphold people's dignity.**

5.1 Asylum seekers in detention must be treated with dignity and respect at all times.<sup>xv</sup>

5.2 Detention facilities should be of a standard that ensures people's wellbeing and that their psychological, social and health needs are addressed.

5.3 Minimum conditions for detention need to be codified and conform to our international human rights obligations.<sup>xvi</sup>

5.4 Healthcare must be provided at a standard commensurate to that available to Australian residents.

5.5 Food must be nutritious and suitable for people's age and religious and cultural background. Asylum seekers should be able to prepare their own food wherever possible.

5.6 Accommodation and bathroom facilities should be of a standard necessary to uphold people's dignity, health and privacy.

5.7 Asylum seekers must have access to means of communication including phones and computers (including internet).

5.8 Access to legal support and translation services should be provided immediately upon arrival and be readily available throughout the stay in detention facilities.

5.9 Asylum seekers must be allowed regular contact with and visits from family, friends, religious organisations and community groups. Visitation facilities must be adequate, including the provision of spaces for private conversation.

5.10 Detention centres must provide adequate education and vocational training opportunities, and recreational facilities and programs.

5.11 Asylum seekers must be free to practice their religion.



5.12 Solitary confinement is never appropriate for asylum seekers.

5.13 All detention centre staff must be properly trained, including about matters relating to the right to asylum, sexual and gender-based violence, human rights and human rights standards, cultural awareness and sensitivity, symptoms of trauma and the special needs of people with disabilities.

5.14 People who are detained must have access to a non-discriminatory complaints process which includes an independent appeals process and have the right to make a complaint to external authorities including the Commonwealth Ombudsman and the Australian Human Rights Commission.<sup>xvii</sup>

5.15 An independent authority should monitor and report publicly on the conditions under which asylum seekers are held and ensure that they are treated justly and humanely.

5.16 All immigration detention facilities must be accessible for monitoring by independent bodies including the United Nations High Commissioner for Refugees (UNHCR), the Australian Red Cross, the Commonwealth Ombudsman and the Australian Human Rights Commission.<sup>xviii</sup>

**6. Australia must support and uphold the legal rights of all asylum seekers, including a fair, transparent and timely process for assessing people's refugee claims.**

6.1 On arrival, asylum seekers should be able to notify their families or others and UNHCR of their arrival.<sup>xix</sup>

6.2 Once a person has told the government that they are seeking asylum they should cease to be considered to be an 'illegal entrant' under existing Australian law.

6.3 Upon completion of health, identity and security checks, all asylum seekers should be issued a bridging visa valid until they are either granted a protection visa or, if their claim is unsuccessful, are voluntarily returned. Bridging visas should, at the very least, include the right to work, access to Medicare and English classes.

6.4 All asylum seekers should have their claims for protection processed in a fair, transparent and timely manner. Their claim for protection should not proceed until they are recovered from the journey.

6.5 All asylum seekers should have immediate access to funded legal advice and assistance to prepare their claims.

6.6 All asylum seekers should have access to sufficient, culturally sensitive translation services from the time that they arrive in Australia.

6.7 All asylum seekers should have access to full administrative and judicial review of their case should protection initially be denied.

6.8 Accelerated refugee status determination processes, including 'enhanced screening' and 'fast track' processes, are generally inadequate and potentially dangerous. Such brief, non-reviewable or limited-review processes increase the risk of people in need of protection being 'refouled'. Accelerated processes should only be used to identify those who may be in urgent need of protection.<sup>xx</sup>

6.9 Recognising the detrimental social and health impacts of family separation, all refugees and others who are found to be owed protection, should have the right to be reunited with their families. Intake numbers for family reunification should not be tied to any caps on existing migration and humanitarian programs.

6.10 Refugees should be offered permanent protection, regardless of their means of arrival.

6.11 Refugees who receive adverse ASIO security clearances should be told why their security clearance has been refused, have access to an independent review of their cases and be able to appeal the decision. Should an independent review determine that they pose no threat to the Australian community, arrangements for community-based detention should be applied.



**7. Australia must provide adequate psychological, social and medical care, and access to education for all asylum seekers.**

7.1 All asylum seekers should have access to healthcare including trauma and torture services, Medicare and public health services from the time that they arrive in Australia.

7.2 Specialist mental health services should be provided to asylum seekers and refugees, recognising the traumatic situations from which they have come and any injuries and untreated medical conditions they may be suffering.

7.3 Asylum seekers should be provided with access to education and vocational training, English-language education, work rights, work-ready support, income support, housing support and casework support while they await the outcome of their claims, and after they are granted protection, for as long as it is required, on a case-by-case basis.

**8. Australia should take a lead in the development of a genuine regional approach to the protection of asylum seekers and refugees.**

8.1 A regional solution should be focused on upholding and protecting the rights of asylum seekers and refugees and supporting the development of a rights- based approach in countries across the region.

8.2 A regional solution would ensure that asylum seekers and refugees are safe where they are, have hope for a secure future for themselves and their families and, if necessary, be able to access appropriate resettlement within the region. There would be no need for people to embark on dangerous sea journeys.

8.3 A long-term, effective and genuinely shared regional solution should be negotiated multilaterally, in consultation with UNHCR and with civil society through such mechanisms as Track II dialogue.<sup>xxi</sup>

8.4 Protection claims must be processed fairly, quickly and transparently by UNHCR, with support from nations like Australia.

8.5 In order to make a positive contribution, Australia must cease unilateral actions such as the interception and turning back of boats and end its bilateral arrangements with the poorest countries in the region.

8.6 Development aid should never be used as a lure to engage poor and developing countries in bilateral agreements about the settlement or detention and processing of asylum seekers.

8.7 Australia must demonstrate its commitment to a regional solution by resettling a substantial number of refugees from the region.<sup>xxii</sup>

**9. Australia should take a truly global approach to refugees, asylum seekers, and displaced persons.**

9.1 Australia's responses to asylum seekers should embody the spirit of international responsibility sharing, in the knowledge of our nation's relative wealth and good fortune, and the burden that has been disproportionately imposed on developing nations.

9.2 The desire to build a trading relationship with a country should never be a factor taken into account when determinations are made on the refugee status of citizens of that nation.

9.3 Australia should increase its commitment to offering resettlement places for refugees referred to us by UNHCR. Australia should (gradually) increase its annual overall humanitarian intake to at least 60,000 by 2020.

9.4 Australia's onshore (refugees whose claims have been processed in Australia) and offshore (resettlement on UNHCR referral) humanitarian program intakes should be de-linked. Australia is the only country that links onshore and offshore humanitarian intakes. The linking of the two components has contributed significantly to the perception that asylum seekers arriving by boat are queue jumpers taking the place of so-called 'legitimate' refugees residing in refugee camps overseas.



9.5 Australia should constructively engage with UN treaty bodies and the Universal Periodic Review process and strive to meet recommendations made by UNHCR in recognition of its mandate to lead and coordinate international action for the world-wide protection of refugees and the resolution of refugee problems.

**10. People whose refugee claims have been rejected should be treated justly and humanely.**

10.1 People whose refugee claims have been rejected should be treated with respect and receive assistance from the government to enable them to return voluntarily and with dignity.

10.2 People who are stateless should be granted complementary protection.<sup>xxiii</sup>

10.3 Every person has a right to a nationality and every child has a right to acquire a nationality.<sup>xxiv</sup>

Children born to asylum seeker parents in Australia should have a right to claim Australian nationality.<sup>xxv</sup>

<sup>i</sup> Uniting Church in Australia Assembly (2015). Shelter from the Storm. Assembly Resolution 15.23.09. Available at: <https://ucaassembly.recollect.net.au/assets/displaypdf/143>

<sup>ii</sup> UNHCR Representation in Australia, New Zealand and the Pacific (2024). Position Paper: Protecting Refugees in Australia and Globally. Available at: <https://www.unhcr.org/au/media/2024-05-01-unhcr-key-priorities-aufinal-pdf>

<sup>iii</sup> *Universal Declaration of Human Rights*, Article 14

<sup>iv</sup> *Convention Relating to the Status of Refugees*, Article 3

<sup>v</sup> *Convention Relating to the Status of Refugees*, Article 31 (1)

<sup>vi</sup> *Universal Declaration of Human Rights*, Article 9 and the *International Covenant on Civil and Political Rights*, Article 9 (1)1

<sup>vii</sup> People are protected against refoulement in a number of treaties and conventions including the *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, Article 3(1); the *International Covenant on Civil and Political Rights*, Articles 6(1) and 7, and the *Convention Relating to the Status of Refugees*, Article 31

<sup>viii</sup> *Convention Relating to the Status of Refugees*, Article 23

<sup>ix</sup> *Universal Declaration of Human Rights*, Article 5

<sup>x</sup> UNHCR (2013), *Guidelines on the Applicable Criteria and Standards Relating to the Detention of Asylum Seekers and Alternatives to Detention*, Guideline 4

<sup>xi</sup> Recommended by the Royal Australian and New Zealand College of Psychiatrists, 'Children in immigration detention', Position Statement 52, February 2015

<sup>xii</sup> UNHCR, *Guidelines on the Applicable Criteria and Standards Relating to the Detention of Asylum Seekers and Alternatives to Detention*, op. cit., Guideline 6

<sup>xiii</sup> Australia already implements a model for 'community-based processing' for asylum seekers who arrive by plane. Once their visa expires, they are granted a bridging visa until their claim is processed. During this time, they do not receive Centrelink payments, but if assessed as particularly vulnerable may receive special assistance equivalent to 89% of the Newstart allowance. Most rely on the support of the community to meet their basic needs.

<sup>xiv</sup> *Convention on the Rights of the Child*, op. cit., Article 37(b). The Royal Australian and New Zealand College of Psychiatrists has recommended a maximum of 3 days, in 'Children in Immigration Detention', Position Statement 52, February 2015, p. 3, op. cit



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<sup>xv</sup> These recommendations are consistent with those made by UNHCR, *Guidelines on the Applicable Criteria and Standards Relating to the Detention of Asylum Seekers and Alternatives to Detention*, op. cit., Guideline 8, and Australian Human Rights Commission (2013) *Human Rights Standards for Immigration Detention*

<sup>xvi</sup> Such guidelines should be consistent with the UNHCR *Guidelines on the Applicable Criteria and Standards Relating to the Detention of Asylum Seekers and Alternatives to Detention*, ibid.

<sup>xvii</sup> Australian Human Rights Commission, *Human Rights Standards for Immigration Detention*, op. cit., section 6.2

<sup>xviii</sup> ibid., section 6.1

<sup>xix</sup> ibid., section 8.4

<sup>xx</sup> B. Douglas et al (2014), *Beyond the Boats: Building and Asylum and Refugee Policy for the Long Term*, Australia, p. 34

<sup>xxi</sup> Track II dialogue takes place between civil society or non-governmental organisations and aims to complement official diplomatic dialogue. In B. Douglas et al., ibid., pp. 37-8

<sup>xxii</sup> There are about 10,000 asylum seekers and refugees in Indonesia (the majority from Afghanistan) and about 150,000 asylum seekers, refugees and others of concern to UNHCR in Malaysia (the majority from Myanmar). Neither country is party to the Refugee Convention and the conditions for asylum seekers and refugees are harsh. Australia resettled only 560 refugees from Indonesia between 2001 and 2010 and has never taken more than 605 in one year. In November 2014, the Government announced that it would no longer be accepting refugees from Indonesia for resettlement. A generous regional intake would be a significant show of faith and provide an alternative pathway to a risky sea voyage. (Statistics from Elibritt Karlsen, 'Refugee Resettlement to Australia: what are the facts?' Research Paper, Australian Parliamentary Library, 3 Feb 2015

<sup>xxiii</sup> 'Complementary protection' refers to protection owed to people under conventions and treaties other than the Refugee Convention.

<sup>xxiv</sup> *Universal Declaration of Human Rights*, Article 15; *International Covenant on Civil and Political Rights*, Article 24(3)

<sup>xxv</sup> This must be the case regardless of whether the mother and baby may be or are consequently transferred to an offshore detention or processing centre.