

## **Australia's Response to Asylum-Seekers from the Middle East**

- 9.1 During the course of the Committee's inquiry, considerable attention was given to the issues surrounding the arrival in Australia since mid 1999 of significant numbers of asylum-seekers who had not been granted prior authority to enter Australia.
- 9.2 Although Australia has a long history of resettling refugees and people in humanitarian need since World War 2, considerable media and community attention has become focused in recent years on the unauthorised landings of asylum-seekers on Australia's coasts and territories, and the operations of international people-smuggling syndicates. A large proportion of the 'boat people' originate in Afghanistan and Iraq, spending considerable time in refugee camps in countries of first asylum such as Pakistan and Iran before making the often hazardous journey to Australia through transit countries in South East Asia.

### **Humanitarian Entrants and Asylum-Seekers**

- 9.3 Of the 5.7 million migrants who have settled in Australia since the end of World War 2, almost 600,000 have arrived under Australia's humanitarian programs. In calendar year 2000, Australia offered 8,000 resettlement places, in absolute terms the third largest resettlement program in the world.<sup>1</sup> Only the US (80,000 places) and Canada (14,300 places) had

---

<sup>1</sup> DIMA, Submission, p. 2062, and Supplementary Submission 80b, pp. 25, 29. Worldwide, there were more than 22.3 million 'persons of concern' to UNHCR as at the end of 1999, including some 11.7 million refugees and 4 million 'internally-displaced' persons.

higher intake programs. On a per-capita basis, Australia is now second only to Canada.

- 9.4 Under Australia's Humanitarian Program, resettlement is arranged for people who face persecution, discrimination or other forms of human rights abuse in their countries of origin. The Program also covers people who are recognised as refugees within the meaning of the 1951 UN Convention Relating to the Status of Refugees (the Refugee Convention) and the 1967 Protocol Relating to the Status of Refugees (the Refugee Protocol).
- 9.5 The critical challenge for countries such as Australia is to ensure that the available refugee places are assigned to those in the greatest need for resettlement.
- 9.6 There is some flexibility in the size of the Humanitarian Program. More than 3,000 unused places from 1999-2000 were added to the 12,000 new places for 2000-01, and any extra places needed in one program year can be drawn from the following year's allocation.

## **The 'on-shore' and 'off-shore' Components of the Humanitarian Program**

- 9.7 For the past few years, Australia's intake under the Humanitarian Program has been set at 12,000 places annually, comprising both 'off-shore' and 'on-shore' components. Off-shore visas authorising entry into Australia are issued to people applying for entry to Australia in other countries. On-shore visas are issued to people after they have already arrived, legally or illegally, in Australia.
- 9.8 The off-shore component has two categories—the Refugee category and the Special Humanitarian Program (SHP). The Refugee category is for those who meet the Refugee Convention definition and who have been identified either directly or in conjunction with the UN High Commissioner for Refugees (UNHCR) as in need of resettlement. The SHP category is for those who are subject to discrimination amounting to gross violation of human rights and who have strong support from family or community groups in Australia.
- 9.9 The allocations for the on-shore and off-shore components are linked, not separate. In announcing the humanitarian intake for 2000-01, the Minister for Immigration and Multicultural Affairs indicated that it was hoped to increase the number of places available off-shore, depending on the

number of people claiming asylum on-shore.<sup>2</sup> In response to criticisms from the Refugee Council of Australia (RCA) and the National Council of Churches in Australia (NCCA) of the numerical linking of the on-shore and off-shore components, DIMA provided the following explanation:

Government and community resources to assist in resettling refugees and those in humanitarian need are finite. Processing unauthorised arrivals in Australia is highly resource intensive. As it is not possible to cap or limit the number of places onshore, linking the two components of the program allows the Government to introduce a degree of budgetary discipline in the management of the humanitarian program which otherwise would not be possible.<sup>3</sup>

- 9.10 The RCA countered this explanation by suggesting that linking the two components has had the effect of increasing the incentive for asylum-seekers to attempt unauthorised entry by direct means, since the number of off-shore places had in effect been significantly decreased by the numbers of unauthorised on-shore arrivals.<sup>4</sup> The dilemma is, that while the international community is grappling with the problem of huge numbers of displaced people in countries of first asylum and the immense task of trying to find solutions at source, Australia is facing the difficult practical issue of dealing with periodic, unauthorised on-shore boat arrivals by asylum-seekers.
- 9.11 The size and 'mix' of the total Humanitarian Program each year are decided by the Australian Government following community consultations and in light of world-wide resettlement needs identified by UNHCR.<sup>5</sup> The number of refugee or humanitarian visas granted to applicants from the Middle East has increased every year both in numbers and as a percentage of all visas granted for the last four years. While there has been a slight decrease in the number of off-shore resettlement places for the Middle East region, this decrease has, according to DIMA, been more than offset by the increase in the number of grants on-shore to people from the Middle East.<sup>6</sup> This trend is clearly shown in Table C at Appendix I, which shows the total number of visas granted under the on-shore and off-shore humanitarian components from mid 1997 to end December 2000. For the six-month period to 31 December 2000, 2,922 on-

---

2 Hon Philip Ruddock MP, media release MPS 035/2000, 3 April 2000. RCA, Submission, p. 84.

3 DIMA, Supplementary Submission 80b, p. 25 (see also pp. 42-43).

4 RCA, Transcript, pp. 416-18.

5 DIMA, Submission, p. 2062.

6 DIMA, Supplementary Submission 80b, pp. 25, 42.

shore visas were granted in the 'Middle East and South West Asia' category, compared with 1,401 off-shore visas. Additional data for the 2000-01 program year are provided in Tables A and B of Appendix I.

- 9.12 Australia's overseas missions receive large numbers of applications for humanitarian resettlement. In the first nine months of 2000-01, a total of 38,906 applications were registered, and the 'pipeline' for the off-shore humanitarian program was 52,862 persons. The following table shows the number of applications registered and the caseload under consideration at posts dealing with applicants in the Middle East.

Table 9.1 Applications Registered and Persons in Pipeline at 31 March 2001

Post	Registered Applications	Persons in Pipeline
Ankara	973	1,817
Athens	5,679	6,243
Beirut	1,369	3,099
Islamabad/Tehran	5,912	5,531
Sub-total (posts listed above)	13,933	16,690
<b>Total (all posts)</b>	<b>38,906</b>	<b>52,862</b>

Source DIMA, *Supplementary Submission 80b*, p. 26

- 9.13 Data available to the Committee from DIMA at the time of writing did not include an analysis of the relative success rates for off-shore applications from the Middle East compared with other regions. However, the information at Appendix I, provided by DIMA, does illustrate relativities between the 'Middle East and South West Asia' and other regions for both on-shore and off-shore categories of Humanitarian Visa grants.
- 9.14 The figures in Appendix I, Table C, show that for the six months to end December 2000, the on-shore grants were more than double the successful off-shore applications for both the 'Middle East and South West Asia' and the 'Asia' groups. This is the reverse of the trend for 'Europe' and 'Africa'.<sup>7</sup> The later statistics provided in Tables A and B confirm that trend.

7 The 'Americas', 'Stateless' and 'Unknown' classification groups contained only very small numbers for the same period.

## Refugee Status Determination

- 9.15 Although not spelt out as a requirement in the Convention, Western signatory states have, under the guidance of the UNHCR, established formal refugee determination processes. Australia ratified the Convention on 22 January 1954 and the Protocol on 13 December 1973.
- 9.16 For obvious reasons, relatively low levels of proof are required in refugee status decisions. According to DIMA, Australia's protection visa decision-makers give refugees the benefit of the doubt when considering their claims. Although granting permanent residence status is not required by the Convention, this has tended to become standard practice.<sup>8</sup> Australia's formal refugee determination processes and the screening system for unauthorised arrivals were described in a report by the Human Rights and Equal Opportunity Commission (HREOC) in 1998.<sup>9</sup>
- 9.17 It is the principle of 'non-refoulement'—the right not to be forcibly returned to the country from which a person has fled persecution—that is the core of the Refugee Convention. Signatory parties to the Convention are obliged to observe the principle when considering the situation of those seeking asylum. The Office of the UNHCR is involved in voluntary repatriation programs for refugees in countries of first asylum, as well as in securing resettlement in third countries for refugees who cannot be settled in their (usually neighbouring) country of first asylum. Repatriation in dignity and safety to the country of origin is the UNHCR's preferred durable solution for refugees. Resettlement in third countries such as Australia is only sought in those cases where people cannot be repatriated, or cannot be settled in their country of first asylum.
- 9.18 DIMA confirmed in evidence that the UNHCR does not have sufficient resources to meet the need for refugee status determination and registration of asylum-seekers in countries of first asylum.<sup>10</sup> This issue has been discussed in Chapter 7 under the heading of 'The Role of UNRWA', and again in Chapter 10 under the heading of 'The UN Relief and Works Agency'.

---

8 For further discussion, see the analysis by A Millbank, Department of the Parliamentary Library, *The Problem with the 1951 Refugee Convention*, Research Paper No. 5, September 2000, p. 4 (html version at [www.aph.gov.au/library/pubs/rp/rp00-01.htm](http://www.aph.gov.au/library/pubs/rp/rp00-01.htm)). See also DIMA, Supplementary Submission 80b, p. 37.

9 HREOC, *Those who've come across the seas: Detention of unauthorised arrivals*, May 1998, pp. 24-27. The definition of 'refugee' has been incorporated in Australian law in section 36 of the Migration Act. See footnote 31 to that report.

10 DIMA, Transcript, p. 556.

## Problems with the 1951 Refugee Convention

9.19 The Convention was framed by the international community as a response to refugee problems encountered before and after World War 2, and during the early years of the 'Cold War'. Article 1A of the Convention (as amended by the 1967 Protocol) defines a 'refugee' as a person who:

... owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.

9.20 Fifty years after its adoption, the Refugee Convention and its Protocol remain the only international instruments for the protection of refugees, and there is increasing doubt about their ability to discharge that responsibility adequately:

The crux of criticism is that the Convention is obsolete and inappropriate to deal with contemporary challenges. ... While Western countries' asylum systems might have coped well enough until the end of the Cold War, they were not designed with today's mass refugee outflows and migratory movements in mind. ...

The Convention definition of refugee has made less sense as the nature of refugee flows has changed, and as numbers have risen.<sup>11</sup>

9.21 The British Prime Minister has publicly urged the international community to review the Convention in order to ensure that those not entitled to asylum are assessed quickly and that genuine refugees are given protection.<sup>12</sup> In July 2001, Australia's Minister for Immigration and Multicultural Affairs was reported in the press as stating that the Convention is not effective in its present form.<sup>13</sup>

9.22 The research paper previously cited summarised the problems with the Refugee Convention in the following terms:

The problem with the 1951 'Geneva' refugee Convention ... is that it offers neither a comprehensive nor a flexible response to the

---

11 A Millbank, *op. cit.*, p. 2.

12 Reuters newswire, 4 May 2001, 'Blair urges international asylum law reform'.

13 For example, Paul McGeough, New York, in *The Sydney Morning Herald*, 9 July 2001, General News Section, p. 1 and Andrew Clennell, 10 July 2001, p. 4.

diversity and complexity of forced population movements that are occurring today. It is distorting the responses, and diverting the resources of Western countries from developing coherent and ethical responses to these movements.

The problem ... can also be summarised in simpler terms, of what it doesn't include. It doesn't confer any right of assistance on refugees unless and until they reach a signatory country. It confers no right of assistance on the 'internally displaced' at all. It imposes no obligation on governments not to persecute their citizens, or to guarantee their safe return. It imposes no mechanism for preventing mass outflows, for burden-sharing between states, for ensuring speedy assistance for those most in need, or for maximising the effectiveness of international resources. And it takes no account of the capacity of receiving states.<sup>14</sup>

## Australia's Protection Visa Regime

- 9.23 DIMA gave evidence that substantial reductions had been achieved in processing times for boat arrivals. For example, 80 per cent of protection applicants in late 1999 received a primary decision within seven and a half months. This was reduced to less than 15 weeks for applications made in late 2000. Where a case has been submitted to the Refugee Review Tribunal (RRT) after refusal at the primary processing stage, review processing times now average less than 70 days. DIMA also stated that a major cause of extended stays in detention is litigation initiated by applicants after determination by both the primary decision-maker and the RRT that applicants should not be granted protection visas.<sup>15</sup>

## Temporary and Permanent Protection Visas

- 9.24 Under the current legislation, unauthorised arrivals whose visa applications are successful are granted a Temporary Protection Visa (TPV) for a period of three years. After 30 months, TPV holders can apply for a Permanent Protection Visa (PPV), which involves a merits-based reconsideration of their claims to protection.<sup>16</sup> Recipients of a TPV are not

---

14 A Millbank, *op. cit.*, p. 16. See also a recent article in *The Age*, 'United Nations treaty under attack', 4 August 2001 in relation to the operation of the 1951 Refugee Convention.

15 DIMA, Supplementary Submission 80b, p. 19.

16 *ibid.*, p. 33.

entitled to sponsor members of their immediate family for entry to Australia, and are eligible for only a very limited range of assistance. The other category of protection is a short-term Safe Haven Visa.

- 9.25 Prior to the introduction of the TPV in October 1999, all successful applicants for protection were granted a visa for permanent stay, with an entitlement to sponsor immediate family members and a whole range of settlement assistance services such as English language tuition. The RCA was particularly concerned about the TPV category, and strongly recommended its abolition. In RCA's view, introduction of the TPV had not only created two classes of humanitarian entrants with vastly different entitlements to settlement assistance but had also generated divisions within and between the various Middle Eastern communities as a result of perceptions that unauthorised arrivals had taken away places from other humanitarian applicants.<sup>17</sup>
- 9.26 For people who are granted refugee status in Australia, there is a range of specialised services available through the Integrated Humanitarian Settlement Strategy (IHSS).<sup>18</sup> People released from detention are granted a TPV, which entitles them to only basic assistance services. TPV holders are permitted to seek work and are entitled to early health assessment and intervention. Their other entitlements include access to Special Benefit, Medicare services, and rent assistance. DIMA explained that the TPV strategy is part of a package of measures designed to discourage unauthorised entry and to deter resorting to people-smugglers.<sup>19</sup>
- 9.27 In RCA's view, the following table illustrates the differences in entitlements for holders of TPVs and PPVs, respectively, and the restrictions applying to TPV recipients:

---

17 RCA, Transcript, pp. 407-08 and Submission, pp. 88-90. See also Exhibit 20, which includes an RCA information paper on TPVs and a comparison between the levels of entitlements under the TPV and PPV regimes.

18 The IHSS, administered by DIMA, provides a suite of immediate settlement services specifically designed to cater for the special needs of humanitarian entrants, including refugees, for a period of at least six months: for details, see DIMA's Supplementary Submission 80b, pp. 38-40.

19 DIMA, Transcript, pp. 558-59 and Submission, p. 2071. Details on the services available to holders of TPVs were provided in DIMA's Supplementary Submission 80b, pp. 30-32.

Table 9.2 Protection Visa Entitlements

	Permanent Protection Visa	Temporary Protection Visa
Social Security	Immediate access to the full range of social security benefits	Access only to Special Benefit for which a range of eligible criteria apply. Ineligible for Newstart, Sickness Allowance, Parenting Payment, Youth Allowance, Austudy and a range of other benefits.
Education	Same access to education as any other permanent resident.	Access to school education subject to state policy. Effective preclusion from tertiary education due to imposition of full fees.
Settlement Support	Access to full range of DIMA settlement support services.	Not eligible for most DIMA funded services such as Migrant Resource Centres (MRC)s and ethnospecific community welfare agencies. Can use Early Health Assessment and Intervention Programs.
Family Reunion	Able to bring members of immediate family (spouse and children) to Australia.	No family reunion rights (including reunion with spouse and children).
Work Rights	Permission to work	Permission to work but ability to find employment influenced by temporary nature of visa and poor English skills.
Language Training	Access to 510 hours of English language training.	Not eligible for the federally funded English language programs: the Adult Migrant English Program (AMEP) or the Advanced English for Migrants Program (AEMP).
Medical Benefits	Automatic eligibility for Medicare.	Eligibility for Medicare subject to lodgement of application for a permanent visa.
Travel	Will be able to leave the country and return without jeopardising their visa.	No automatic right to return.

Source RCA, Exhibit 20.1. See also RCA, Transcript, p. 408. DIMA provided descriptive information on TPV entitlements in Supplementary Submission 80b, pp. 30-32.

### 9.28 DIMA advised the Committee that a TPV does not contravene the provisions of the Refugee Convention:

Before the TPV was introduced, Australia's generous protection arrangements—whereby unauthorised arrivals were eligible immediately for permanent residence, family reunion and a full range of support measures—were clearly an attraction for people-smugglers and forum shoppers, and contributed to the large increase in unauthorised arrivals in 1999.

The TPV provides the fundamental protection and support required by the Refugee Convention. ... Australia is under no obligation to provide permanent residence to all refugees, and the

TPV does not constitute a penalty on unauthorised arrivals for the purposes of Article 31(1) of the Refugee Convention.<sup>20</sup>

- 9.29 A majority of the Committee considers it quite reasonable for Australia to be more generous to asylum-seekers who have obtained authority for entry than to those who arrive without authority. The differential scale of benefits for TPV and PPV holders does not warrant making changes to the current TPV arrangements.

## Refugees from the Middle East

- 9.30 The Middle East is currently a major source of refugees and a significant source of the recent growing numbers of refugees and illegal immigrants to Australia, according to DFAT.<sup>21</sup> In the last quarter of 1999, there was a sharp increase in the numbers of people arriving unlawfully in Australia to seek asylum. The vast majority of these arrivals were from the Middle East, with the two largest groups being Afghans and Iraqis. This influx of asylum-seekers continued into 2000 and 2001.<sup>22</sup>
- 9.31 Under the provisions of the *Migration Act 1958* as amended and complementary legislation, people who arrive in Australia without authorisation (whether they arrive with no travel documents, or present documents that are found to be fraudulent) are required by law to be placed in immigration detention until either they are granted a visa or they are removed.<sup>23</sup> Before the upsurge of numbers in 1999, air arrivals consistently outnumbered boat arrivals. In the 1999-2000 financial year, 1,695 people were refused entry at Australian airports and 4,174 people arrived without authority on 75 boats. In the year 2000, from a total of 4,258 unauthorised arrivals, 2,688 people arrived by boat, mainly from Middle East countries.<sup>24</sup>
- 9.32 According to DIMA, the US, Britain, Canada, France, Austria and Hong Kong are some of the developed nations which detain unlawful arrivals, although Britain, for example, does not have a mandatory detention regime. The vast majority of asylum-seekers have entered Australia with

---

20 DIMA, Supplementary Submission 80b, p. 44. See also Transcript, p. 559.

21 Submission, p. 971.

22 DIMA, Submission, pp. 2064-67.

23 *Migration Act 1958*, as amended, as well as complementary legislation relating to border protection and customs administration; DIMA, Submission, pp. 2064-65, 2068.

24 JSCFADT, *A Report on Visits to Immigration Detention Centres*, June 2001, p. 12 and Appendix C of that report.

a valid visa and are therefore absorbed into the community while they pursue their claims. Similarly, not all persons in detention are asylum-seekers.<sup>25</sup>

- 9.33 Iran has for the past 20 years hosted as many as 2.5 million refugees from Afghanistan and Iraq, with minimum support from overseas or international organisations such as the UNHCR. The Ambassador of the Islamic Republic of Iran informed the Committee of the extent of Iran's response to refugee problems in the region. His Excellency urged Australia and the international community to take a more active role in assisting with safe return arrangements and in relieving the plight of refugees who have sought refuge in Iran:

It is no secret that hosting this number of refugees for so long is a big burden on our economy and has its own social implications. We expect the international community [to] put its efforts together to first make possible the safe return of these refugees to their homeland, and while doing so, [make] provision ... to sustain a minimum level of facilities for these refugees.<sup>26</sup>

## **Australia's Response to Unauthorised Arrivals from the Middle East**

- 9.34 Australia is perhaps unique among Western countries in its capacity and willingness to remove failed asylum-seekers. Mandatory detention of illegal arrivals has made the removal of 'boat people' (the most high-profile asylum-seekers) who have been refused refugee status almost a routine matter, although controversial. In other countries, according to research, only a minority of failed asylum-seekers actually ever leave, voluntarily or otherwise. The British Foreign Office, for example, has acknowledged that up to two thirds of those refused asylum in Britain 'simply vanish'.<sup>27</sup>
- 9.35 In addition to changes to the protection visa regime, the Australian Government made a number of other legislative changes in 1999 to

---

25 DIMA, Supplementary Submission 80b, pp. 17-18.

26 HE Dr Gholamali Khoshroo, Submission, p. 449. In January 2000, the Minister for Immigration and Multicultural Affairs, the Hon Philip Ruddock MP, visited Iran to examine the refugee situation and to discuss cooperative arrangements for managing the outflow of asylum-seekers to Australia.

27 Millbank, *op. cit.*, p. 11.

address the problem of people-smuggling. Those changes included enhanced powers to intercept illegal entrant vessels at sea.<sup>28</sup>

## **The Committee's Report on Immigration Detention Centres**

- 9.36 In June 2001, the Committee released its report on the six Australian immigration detention centres, based on a program of visits undertaken between January and March 2001. The Committee's concerns about the detention system reflected growing community criticism about conditions in the centres. At the time of writing, there have been widely-reported demonstrations, escapes and other incidents involving detainees in various locations in recent months.<sup>29</sup>
- 9.37 The Committee's report, presented to Parliament on 18 June 2001, expressed considerable concern about the detention arrangements for women, children and families, and supported the trial arrangements announced by the Minister for Immigration and Multicultural Affairs in May 2001. The report contained a number of recommendations, including:
- a time limit on the period that people should spend in detention after obtaining security clearance;
  - regular appointments with case officers, so that detainees can obtain advice about progress in considering their claims for refugee status;
  - provision of accommodation in the centres for the exclusive use of families;
  - greater access to detention centres by appropriate community organisations, including religious and welfare groups;
  - special arrangements for accommodating detainees who warrant higher levels of security; and

---

28 DIMA, Submission, pp. 2071-72.

29 For example, AAP newswire reported on 26 June 2001 the end of a hunger strike at Port Hedland Detention Centre which began following the death of a detainee. Clashes with guards at Woomera Detention Centre and damage to buildings and facilities were reported at various times in 2000 and 2001. Several of the 46 escapees in two outbreaks from Villawood Detention Centre in July 2001 were reported to be from Afghanistan, Iran, Iraq and Kuwait (*The Australian*, 20 July 2001, p. 1 and *The Canberra Times*, 23 July 2001, p. 1).

- improvements in the procedures and standards adopted by the contractor responsible for management of the centres, Australasian Correctional Management Pty Ltd.<sup>30</sup>
- 9.38 The Minister for Immigration and Multicultural Affairs announced funding in the May 2001 Budget for new and upgraded detention facilities in response to the rising numbers of unauthorised sea and air arrivals. In 2000, the large numbers of boat arrivals led to the re-opening of the Curtin facility in Western Australia and the establishment of a centre at Woomera, to relieve pressure on existing detention facilities.<sup>31</sup>
- 9.39 Earlier this year, the UN High Commissioner for Refugees, Mr Ruud Lubbers, criticised aspects of Australia's approach to on-shore asylum-seekers, and their portrayal in the press and in some official statements as 'bogus' refugees who were 'flooding' into Australia.<sup>32</sup> In its submission, the National Council of Churches in Australia (NCCA) emphasised the dangers of any government, consciously or otherwise, stereotyping refugees from the Middle East as undesirable in any way, since 'such comments may feed into racism and racist violence in the community'.<sup>33</sup>
- 9.40 DIMA's supplementary submission, received on 29 June 2001, addressed many of the issues of concern raised during the public hearings on the Middle East inquiry which were also identified in the Committee's detention centre report.<sup>34</sup>

## TPV Inter-Agency Strategy Group

- 9.41 The Committee received evidence from an inter-agency Strategy Group in South Australia which was formed to assist with meeting the initial settlement needs of TPV holders who move to that State after release from detention. The group, known as the TPV Inter-Agency Strategy Group, consists of representatives from the Government of South Australia, as well as Commonwealth agencies, and includes a range of NGO community organisations.
- 9.42 Particular attention has been given by the Strategy Group in South Australia to meeting needs for housing, English language tuition, family

---

30 JSCFADT, *A Report on Visits to Immigration Detention Centres*, June 2001, pp. xi-xiv.

31 Hon Philip Ruddock MP, media release MPS 048/2000, 9 May 2001. Two new centres, at Brisbane and Darwin, were allocated \$52.1 million over four years.

32 *The Sydney Morning Herald*, 22 June 2001, p. 4 and 10 July 2001, p. 4; AAP newswire, 9 July 2001, 'More asylum-seekers not the answer: Ruddock'.

33 Submission, p. 940. See also evidence from RCA, Transcript, p. 420.

34 DIMA, Supplementary Submission 80b, pp. 17-25.

services and the care of unattached minors. The Inter-Agency witnesses considered that lack of access to Commonwealth-funded English language tuition and, hence, reduced employment possibilities were the biggest hurdles faced by former detainees entitled to TPV benefits.<sup>35</sup>

## International People-Smuggling

9.43 The shift since 1999 towards unauthorised boat arrivals by people of Middle Eastern origin represented a major change in the pattern of such arrivals, which had previously been sourced from China or countries in South East Asia. For DIMA, the altered patterns and volumes of arrivals, coupled with more intensive media and public attention, had significant consequences in terms of the department's priorities, procedures and administrative costs. The May 2000 Budget provided funding of \$49 million over four years for a range of initiatives designed to strengthen border integrity and combat people-smuggling. These included:

- placement of additional compliance officers in Jordan, Iran and Pakistan and airport liaison officers in transit countries such as Indonesia;
- development of a pilot program of targeted reintegration assistance to countries accepting returned unauthorised arrivals;
- faster processing procedures for humanitarian entry applications, and less time taken for checks associated with protection visa assessments;
- provision of targeted aid contributions and resettlement support to develop a coordinated international approach to long-term solutions for Afghan and Iraqi refugees; and
- in cooperation with transit countries, development by DIMA, Australian Customs and the Australian Federal Police of a package of technical and physical assistance to border control agencies.<sup>36</sup>

9.44 A substantial level of bilateral consultation has taken place with Indonesia and Malaysia in relation to the transit of unauthorised asylum-seekers. These consultations have included the UNHCR and the International Organisation for Migration (IOM). In addition to pursuing bilateral

---

35 Department of Human Services, South Australia, Transcript, p. 488-89.

36 DIMA, Submission, p. 2069. The allocation of \$49 million was announced by the Treasurer, the Hon Peter Costello MP in the Second Reading Speech, Appropriation Bill No. 1, 2000-01, 9 May 2000.

agreements with various governments, Australia participates in a number of international forums which focus on the eradication of people-smuggling. These forums include:

- the Inter-governmental Consultations on Asylum, Refugee and Migration Policies in Europe, North America and Australia;
- the Asia-Pacific Consultations on Refugees, Displaced Persons and Migrants; and
- the Pacific Rim Immigration Intelligence Officers Conference.

- 9.45 Australia is seeking to enhance its interception capacity by working closely with countries and airlines in the region on information-exchange and intelligence activities as well as through participation in the above forums. Combined efforts by DIMA and the Australian Federal Police to investigate organised people-smuggling operations have also been pursued actively, including establishment of the National Surveillance Centre as part of the Australian Customs Service. These and other measures aim to enhance high-level coordination and information-sharing between agencies to improve coastal surveillance and the early detection of unauthorised arrivals.<sup>37</sup>
- 9.46 In recent years, considerable resources have been allocated by Australia and other Western governments, particularly in Europe, to counter people-smuggling operations. Actions have included information campaigns warning potential victims, posting immigration officers at high risk airports overseas to detect fraudulent documents, imposition of very large fines on airlines which transport unauthorised passengers, and extensive use of detention for illegally arrived asylum-seekers.
- 9.47 Strategies to increase international cooperation in response to major refugee outflows and the rise of people-smuggling operations have been pursued by the Minister for Immigration during attendance at the Executive Committee of the UNHCR and visits since 1999 to the Middle East, Europe and countries in Australia's more immediate region. The Minister has suggested that receiving countries have a collective interest in lightening the burden of care in countries such as Iran and Pakistan, and in making it easier for refugees to stay in those countries pending 'durable solution' of their situations.<sup>38</sup> Millbank drew similar conclusions:

---

37 DIMA, Supplementary Submission 80b, p. 16.

38 Hon Philip Ruddock MP, during a conference in Paris on people-smuggling, July 2000 and media release MPS 100/2000, 30 September 2000. UNHCR's preferred durable solution for refugees comprises either repatriation under conditions of safety and dignity, integration in

People-smuggling represents a particularly challenging affront to notions of state sovereignty, and may be providing the extra pressure that pushes governments towards reform of the Convention-based system. UK Home Secretary, Jack Straw, has proposed strengthening protection in the refugee-producing regions and the lodging of asylum applications from abroad to stop asylum-seekers from purchasing organised illegal entry into European countries. He has also proposed the notion of quotas of refugees from high-risk regions, in order to share the burden more equitably, and to enable planned intakes and settlement [strategies].<sup>39</sup>

- 9.48 After a visit to Jordan, Syria, Turkey, Iran and Pakistan in January 2001, the Minister for Immigration and Multicultural Affairs announced a number of agreed cooperative measures, including the posting of Liaison Officers to Iran, Jordan and Pakistan.<sup>40</sup> The role of these officers is to negotiate with the host country and the IOM on arrangements for return of nationals and re-admission of third country nationals, as well as management of some of the humanitarian caseloads. Liaison Officers work closely with the UNHCR and NGOs to pursue and expedite checking of character information, documentation and other matters. In addition, Australia has substantially increased its penalties for people-smuggling.<sup>41</sup>

## Combating the syndicates

- 9.49 As DIMA explained, there are three key elements to Australia's response to illegal immigration and people-smuggling:
- bilateral and international action to minimise primary outflows from countries of origin and secondary outflows from countries of first asylum—a preventive strategy;

---

the country of first asylum, or (if the other options cannot be achieved) resettlement in a third country.

39 A Millbank, *op. cit.*, p. 20, citing Mr Straw's speech to a conference on asylum in Lisbon, June 2000.

40 Hon Philip Ruddock MP, MPS 006/2001, 20 January 2001.

41 Hon Philip Ruddock MP, MPS 006/2000 (20 January 2000) and MPS 143/99 (13 October 1999). See also AAP newswire, 26 January 2000, 'Middle East pledges support as more illegals arrive'. DIMA, Supplementary Submission 80b, p. 16.

- working with other countries to disrupt the activities of people-smugglers, including prosecution and interception of their clients *en route*; and
  - developing appropriate reception arrangements for unauthorised arrivals who reach Australia, early assessment of claims for refugee status, providing protection for those found to be genuine refugees, and prompt removal of failed asylum-seekers.<sup>42</sup>
- 9.50 Organised, profit-motivated criminal syndicates have been increasingly active in conducting the flow of unauthorised arrivals to Australia. These syndicates operate in source countries as well as transit countries, managing all phases of the movement of people, the purchase of vessels and the organisation of boat departures from countries such as Indonesia. Most boats land at either Christmas Island or Ashmore Reef. According to DIMA, unlike the covert landings on the east coast by Chinese boat people in early 1999, the recent Middle Eastern boat arrivals are overt—they want to be detected and detained, and in most cases possess accurate information about Australia's protection visa processes.<sup>43</sup>
- 9.51 The instigators of a large people-smuggling operation based in Indonesia were arrested recently in Cambodia after extensive surveillance assisted by Australia. It has been estimated that this Indonesian-based syndicate alone has been responsible for around 30 per cent of unauthorised boat arrivals in Australia.<sup>44</sup>
- 9.52 Australia has repeatedly urged the UNHCR and the international community to increase the levels of support to countries of first asylum and to work cooperatively towards durable solutions which would obviate the need for desperate asylum-seekers to resort to smugglers.<sup>45</sup>
- 9.53 One disturbing recent development in Australia was an advertisement in *The West Australian* by an operation known as 'Frontline Australia', seeking recruits for proposed patrols of the northern coastline in international waters to combat people-smuggling.<sup>46</sup> There was considerable criticism in the press from both government and non-

---

42 DIMA, Transcript, pp. 549-50 and Supplementary Submission 80b, pp. 15-16.

43 DIMA, Submission, p. 2070. A recent boat arrival at Christmas Island involved a reported 351 people, including more than 150 women and children, many from Iraq, Afghanistan and Pakistan. The leaking wooden boat had an Indonesian crew (*The Australian*, 17 August 2001, p. 1.)

44 Reported in *The Weekend Australian*, 14 July 2001, p. 3.

45 DIMA, Submission, pp. 2069, 2073 and Transcript, p. 550.

46 *The Australian*, 13 July 2001, p. 5 and *The Canberra Times*, 14 July 2001, p. 7; AAP newswire 'No charges for man who advertised for boatpeople vigilantes', 19 July 2001.

government sources of what could be described as 'vigilante' operations such as these, which would be contrary to international law.

## Support for the UNHCR

- 9.54 In DIMA's view, the most significant factor leading asylum-seekers to resort to people-smuggling organisations is the failure of the international community to support countries such as Pakistan and Iran, which have borne the brunt of the burden of large refugee populations for long periods of time. Lack of a durable solution for refugees in countries of first asylum has forced some of them to find their own means of escape via organised smuggling operations.<sup>47</sup>
- 9.55 The nub of the problem is the discrepancy between the level of financial support for the UNHCR and the far larger amounts spent by Western countries on maintaining their asylum systems. The focus of the UNHCR in the camps is on repatriation. Less than 30 per cent of people are assessed as requiring resettlement in a third country.<sup>48</sup> However, the acceptance rate in Australia for on-shore Iraqi and Afghan asylum-seekers in detention was over 90 per cent for the 1999-2000 cohort, although somewhat less for the 2000-01 cohort.<sup>49</sup> Hence it has been argued that the Convention-based system as it currently applies encourages asylum-seekers to take matters into their own hands if they have sufficient financial and other resources to reach a potential host country. This means that others, with perhaps greater need, are forced to remain for long periods in the refugee camps.
- 9.56 The Committee notes the efforts made by Minister for Immigration and Multicultural Affairs during overseas visits and in the Executive Council of UNHCR to advance the cause of international cooperation in addressing major issues such as the serious imbalance between levels of funding for the UNHCR's refugee protection systems and domestic expenditures on asylum regimes. Research suggests that the individual national asylum regimes for states such as Canada, Australia and

---

47 DIMA, Transcript, p. 550.

48 A Millbank, op. cit., p. 14. RCA, Transcript, pp. 408, 412; NCCA, Submission, p. 940; Stuart Rintoul, *The Australian*, 8 June 2001.

49 DIMA, Exhibit 38. Media releases by Minister Ruddock (Nos. 111 and 112 of 7 August 2001) indicated that the approval rate for unauthorised boat arrivals had fallen to 75 per cent for July/December 2000; see also Appendix I.

European OECD countries consume more than ten times the resources available to the UNHCR.<sup>50</sup>

- 9.57 According to DIMA, Australia's reform agenda for the UNHCR is advanced through bilateral discussions and involvement in the Executive Committee. The specific approaches supported by Australia include:
- re-exertion of States' control, complemented by enhanced leadership from the High Commissioner;
  - greater leadership and direction from a reinvigorated Executive Committee;
  - improved review, evaluation and accountability frameworks within the UNHCR;
  - recognition of the inter-relationships between people smuggling, illegal migration and the international protection framework and the role of the UNHCR in interception strategies; and
  - the creation and funding of durable solutions to resolve long-standing refugee problems.<sup>51</sup>

## Perceptions of 'queue-jumping' and other negative images

- 9.58 A significant proportion of the evidence placed before the Committee in relation to unauthorised boat arrivals reflected the on-going debate in the Australian community about the issues of alleged 'queue-jumping' and 'forum-shopping' by people who have attempted to enter Australia without authority. The Committee acknowledges, however, that the method of arrival does not necessarily have any bearing on the merits of claims for refugee status or resettlement. Rather, landing on-shore without authority means that the 'boat people' have had sufficient resources and incentive to make such an attempt, as DIMA pointed out.<sup>52</sup>
- 9.59 Labelling of asylum-seekers who arrive without authorisation as 'forum-shoppers' and a 'flood' has not helped to promote rational debate about Australia's response to the problem. It is also arguable that elements of the Australian media have contributed significantly to the negative public

---

50 A Millbank, *op. cit.*, p. 13; DIMA, Supplementary Submission 80b, p. 28.

51 DIMA, Supplementary Submission 80b, p. 28.

52 DIMA, Transcript, p. 556.

perception that asylum-seekers arriving off the coasts of Australia without authorisation were 'queue-jumping'. In Australia, asylum-seekers with the resources to pay smugglers have not elicited public sympathy in the way that more obvious refugees did—for example, the Kosovars who were accorded safe haven.

9.60 The NCCA argued that negative public perceptions in Australia of the unauthorised arrivals were not justified by the small proportion of non-genuine cases:

There is no organised 'queue' for victims fleeing persecution worldwide. Many people with undisputed refugee status cannot travel to the Australian Embassy or UNHCR office to register, and that process may take years. Many have their travel papers confiscated or cannot travel on them for fear of capture. This is not to say some immigrants who are not refugees try to circumvent the system, but the system should not be designed only to catch such people at the expense of genuine refugees trying to seek protection in Australia.<sup>53</sup>

9.61 In broad terms, the RCA was critical of a number of aspects which, in the Council's view, had done severe damage to Australia's reputation as a humane and responsible member of the international community and to relations within and between ethnic communities in Australia:

The Council has been deeply concerned about:

- the way in which the boat arrivals have been projected in the popular press;
- the use of the resultant 'climate of fear' to legitimise the introduction of draconian policies; and
- the manipulation of ethnic communities by emotive rhetoric and implication of complicity.<sup>54</sup>

## Support for Countries of First Asylum

9.62 Collectively, the international community must share responsibility for the protection of asylum-seekers who have been forced to leave their countries of origin. The RCA contended that the international community as a whole has failed to protect refugees—by failing to support adequately the countries of first asylum such as Pakistan and Iran, which are

---

53 NCCA, Submission, p. 939.

54 RCA, Submission, p. 79 and Transcript, p. 407.

struggling to cope with enormous numbers of refugees from Afghanistan and Iraq in particular.

- 9.63 In the Council's view, Australia should do more to urge the international community to alleviate the extremely distressing conditions suffered by the asylum-seekers in the camps, which in some cases drive them to seek direct solutions such as unauthorised entry to third countries.<sup>55</sup> A large part of the 'burden-sharing' approach discussed at the UNHCR's 1998 Executive Council Meeting centred around the urgent need for assistance to countries which have shouldered a disproportionate level of responsibility for hosting large refugee populations.
- 9.64 The UNHCR mid-year report in 1999 indicated that allocations to Iran and Pakistan that year were US \$17.7 million and US \$16.6 million respectively. The RCA estimated that in the early part of 2000, Iran was hosting over 1.4 million Afghan refugees, many of whom have been there for around 20 years. In Pakistan, there were at that time approximately 1.2 million refugees in camps along the border with Afghanistan in addition to the thousands who had moved to the towns and cities during the last 20 years.<sup>56</sup>
- 9.65 The RCA urged the Australian Government, in conjunction with other members of the international community, to do more to reduce the burden that is falling on countries such as Pakistan and Iran in hosting large numbers of Middle Eastern refugees.<sup>57</sup>
- 9.66 Australia has sought to work with countries of first asylum to assist them in providing temporary protection while durable solutions are found. In June 2000, the Minister for Foreign Affairs and the Minister for Immigration and Multicultural Affairs allocated \$1.5 million from the 1999-2000 aid budget towards the UNHCR 2000 South West Asia Appeal, which was intended to increase the self-reliance of refugees sheltering in Iran and Pakistan.
- 9.67 The Committee agrees that the protection of genuine refugees who have been forced to flee to camps in neighbouring countries should be given stronger focus by the international community.

---

55 RCA, Transcript, p. 412.

56 RCA, Submission, p. 82.

57 RCA, Submission, p. 91; DIMA, Supplementary Submission 80b, p. 27. Between them, Iran and Pakistan are currently supporting around 3.5 million Afghan and Iraqi refugees.

**Recommendation 34**

- 9.68 **The Committee recommends that the Australian Government increase its efforts, in conjunction with other members of the international community, to focus world attention on measures to reduce the huge burden placed on countries of first asylum, which are supporting large numbers of asylum-seekers from the Middle East.**
- 9.69 Apart from urging the international community to provide on-going support to countries of first asylum, Australia's principal strategy has been to offer support for sustainable repatriation by providing aid and assistance through international agencies working in the source countries. In mid July 2000, \$1.7 million was provided to the World Food Program's drought relief appeal for Afghanistan, which was directed towards alleviating the suffering of the rural population and reducing the likelihood that those affected would become displaced. Other donor nations were urged to provide similar relief.
- 9.70 DIMA indicated in evidence that further assistance to both Iraq and Afghanistan was being considered in the context of the development of priorities for use of the aid funding allocated to DIMA in the 2000-01 Budget.<sup>58</sup> An overall allocation to DIMA of \$20.8 million over four years from June 2000 provides a focus for increasing support for sustainable repatriation to source countries as well as assistance to countries of first asylum. Some \$4.5 million was re-allocated from within Australia's broader aid funding for 2000-01 to support efforts to reduce refugee outflows or to promote repatriation solutions.<sup>59</sup> Initiatives such as these should be given further support, as the following recommendation provides.

---

58 DIMA, Supplementary Submission 80b, p. 27.

59 *ibid*, pp. 41-42.

**Recommendation 35**

9.71 **The Committee recommends that additional resources be directed towards:**

- **combating the root causes of refugee outflows from countries such as Afghanistan and Iraq, to the extent permitted by the extremely difficult circumstances prevailing in those countries; and**
- **promoting repatriation solutions from countries of first asylum.**

9.72 The next chapter of this report considers Australia's overseas aid program for the Middle East, and suggests ways in which it might be improved.

