Submission to the Australian Labor Party Caucus
Social Policy Committee

REVIEW OF IMMIGRATION POLICY

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BACKGROUND

UnitingJustice Australia, part of the agency Uniting Faith and Justice in the National Assembly of the Uniting Church in Australia, welcomes the opportunity to present this submission to the Australian Labor Party’s caucus social policy committee review of immigration policy.

The Uniting Church in Australia seeks to bear witness to our Christian faith through our program of worship, service and advocacy. In the Christian tradition of providing hospitality to strangers and expressing in word and deed God’s compassion and love for all who are uprooted and dispossessed, Uniting Church members and bodies have worked closely with refugees and asylum seekers for many years.

Through our network of congregations, employees, lay people and community service agencies, the Uniting Church provides services and supports to asylum seekers and refugees in the community and in detention. Through our ministers, lay and ordained, who provide ministry to the asylum seekers in detention centres and through our work with service provision, support and advocacy for asylum seekers and refugees settling into the community, we have first-hand knowledge of the many harmful consequences of unsound national refugee and asylum seeker policies.

In July 2002, the Uniting Church released its Policy Paper on Asylum Seekers, Refugees, and Humanitarian Entrants. This paper outlines principles for a just response to the needs of refugees, recognising Australia’s responsibilities as a wealthy global citizen and upholding the human rights and dignity of all people. Policies dealing with such vulnerable people must also be culturally sensitive and furthered through non-discriminatory practices and transparent, publicly accountable processes. A copy of this position paper, which informs much of the following submission, is contained in the appendix for your further information.

Uniting Church activities in this area are informed and supported by a history and tradition of opposing social injustices, and working for the formulation of sound, compassionate and socially just public policy. This spirit is captured strongly in the Uniting Church’s inaugural Statement to the Nation:\footnote{1}

\begin{quote}
We affirm our eagerness to uphold basic Christian values and principles, such as the importance of every human being, the need for integrity in public life, the proclamation of truth and justice, the rights for each citizen to participate in decision-making in the community, religious liberty and personal dignity, and a concern for the welfare of the whole human race.
\end{quote}

The Uniting Church will continue to work for a compassionate, socially responsible society and Government that takes seriously its national and international obligations. In this spirit, UnitingJustice offers this submission to the Australian Labor Party.

\footnote{1 \textit{Statement to the Nation}, Inaugural Assembly of the Uniting Church in Australia, 1977}
OVERVIEW

This submission recommends that the Australian Labor Party:

- articulate and model a separation between ‘security’ concerns and the human rights and wellbeing of individual asylum seekers;
- adopt complementary protection as its primary platform for overhauling the current refugee determination system;
- adopt the de-linking of the onshore and offshore humanitarian programmes as part of its policy platform;
- clarify its opposition to the ‘Pacific Solution’ and make a commitment to end the exclusionary and discriminatory treatment of asylum seekers under such arrangements;
- undertake to close the Christmas Island detention facility, in acknowledgment of evidence that this is an inappropriate facility for the processing and detention of vulnerable asylum seekers;
- adopt an end to indefinite detention as part of its policy platform;
- support access for Church and Non-Government Organisations to asylum seekers in detention centres;
- ensure that all asylum seekers in the community have access to the right to work and to healthcare, in order to address the current destitution crisis;
- adopt a policy of permanent protection, ending the use of temporary protection visas in the onshore asylum program and the discrimination against temporary protection visa holders;
- repudiate the use of language that demonises and dehumanises asylum seekers and refugees, undertaking to maintain a high standard of language in public discourse.
ASYLUM POLICY AND HUMAN RIGHTS

Through the Christian tradition, the Uniting Church in Australia believes that all people are created in the image of God. This allows us to understand the truth, that all human beings as precious and entitled to dignity and love, and that the harming of one person injures the heart of the community. At its most recent triennial gathering, the Eleventh National Assembly of the Uniting Church in Australia adopted the statement *Dignity in Humanity: Recognising Christ in Every Person*, which commits the Uniting Church to promote and uphold the standards outlined in the international human rights instruments, and states the Church’s understanding of human rights as “indivisible, universal and inalienable”:

*We condemn the abuse of human rights and the failure to uphold and promote human rights as contrary to the gospel of God’s love in Christ for all human beings and the earth.*

The Church’s statement on the primacy of human rights pledges the Uniting Church to hold the Australian Government accountable to its international commitments in the formulation of its policy and legislative agenda. This is no less the case in the area of immigration and asylum, where, criminally, the wellbeing of individual human beings has been subjugated to the political pressures of the day.

One of the most important policy principles outlined in *Asylum Seekers, Refugees and Humanitarian Entrants* is the ultimate responsibility of Government to uphold the human rights of asylum seekers at all times, and to separate and give primacy to these issues of human rights over other relevant issues of border protection and national security. Compassion and the protection of human dignity must be the primary drivers of Australia’s asylum programme. Treatment of asylum seekers and refugee and immigration policy must not be dictated by transient political concerns.

ENDING THE PACIFIC SOLUTION

It is clear to us that current ALP policy on immigration and asylum conflates the two separate issues of border protection and treatment of asylum seekers, and that this is a key opportunity for the ALP to reconfigure its policy approach to the separate issues of security and the welfare of individual asylum seekers. In particular, we strongly recommend that the ALP reconfigure its policy around the ‘Pacific Solution’ as a matter of clarity.

Currently, ALP policy at 3(i) pledges to end the ‘Pacific Solution’. However, the same ALP policy at 1(iv) undertakes to maintain the excision of Christmas Island, the Cocos Islands and Ashmore Reef from the migration zone, which we believe is designed to deter people smuggling operations, and at 3(v) promises the maintenance of a detention centre on Christmas Island, which is presumably to be used as a place to detain those asylum seekers discovered within this excised area.

As such, we are unable to discern how the plans outlined at 1(iv) and 3(v) would differ substantially from the Federal Government’s current policies in this area, other than that these asylum seekers would presumably be processed on Christmas Island rather than
on Nauru or Manus Island. The ‘Pacific Solution’, in practical terms, refers to the processing of claims for people who have landed unlawfully on prescribed external territories, including those outlined by ALP policy, under the auspices of the offshore program rather than allowing these asylum seekers access to the more generous provisions of the onshore processing system. Applicants through the offshore program are substantially disadvantaged in their rights to appeal their determination and ability to obtain resettlement, compared to those who have access to the onshore system. It seems clear that ALP policy, far from ending the ‘Pacific Solution’ as it states, instead maintains and propagates this system of exclusion, isolation and inequality of access to resettlement options for certain asylum seekers. We would welcome the assurance of the ALP that this is not the case.

The Uniting Church has opposed the ‘Pacific Solution’ since its original formulation. We are convinced that it can never be in our interest as a nation to exclude certain asylum seekers from the enjoyment of their rights under international and Australian domestic law in the name of security. We do not support the excision zone, as it leads to a fundamental inequality in our treatment of certain asylum seekers.

We are firmly convinced that national policy in this area must reflect a commitment to upholding the rights and dignity of asylum seekers. This is a commitment that must be clearly articulated within ALP policy from the outset, and it must be distinguished from issues around border protection and from Australia’s response to regional people-smuggling operations. As it stands, the ALP’s policy fails to make this distinction in a meaningful and durable way.

**Christmas Island is an Unsuitable Alternative**

The maintenance of the detention centre on Christmas Island itself is an unsuitable alternative to mainland community detention options. Quite aside from our opposition to the practical disadvantage suffered by these refugees in having their application processed through the offshore program, we must highlight significant issues of geographical isolation, as well as the impact on the local community, that make the site unsuitable.

Uniting Church staff have observed the detention process on Christmas Island first-hand, and their experience informs our opposition to the Christmas Island alternative. Uniting Church staff were impressed by the isolation of the facility, and as a consequence the prohibitive cost for NGOs in gaining access to the centre. Airfares were extremely expensive, costing many thousands of dollars. As a result we are extremely concerned that Church and NGO staff, who provide a wide array of legal and advocacy services as well casework and support to asylum seekers on the mainland, would be hindered in carrying out these functions to the detriment of individual asylum seekers. In addition, the important and proven role that such organisations play in ensuring transparency and accountability within detention environments will be lost.

The isolation of the Christmas Island detention centre also makes it unsuitable as an early assessment and reception centre for asylum seekers. Tertiary medical assistance must be sought from the mainland, and often asylum seekers manifest complex and unusual medical and psychological needs consistent with their traumatic experiences. Flying asylum seekers to Perth to seek these medical services is extraordinarily expensive, requiring the chartering of private planes with contracted medical staff, or the
use of the Royal Flying Doctor Service, and the separation of families who are in extremely vulnerable condition.

In addition, the burden on the local community at Christmas Island is unacceptable. While the community seeks to offer some services and humanitarian aid to those people in the detention centre or the residences, this involves significant stress for a small community.

DE-LINKING THE HUMANITARIAN PROGRAMS

Since 1996, intakes to the onshore and offshore humanitarian programmes have been linked. As a result, any increase in the allocation of onshore places through successful asylum claims leads to a corresponding decrease in the number of places available to offshore applicants, including offshore applicants who have entered the Australian excision zone and are subsequently detained on Christmas Island, Manus Island and Nauru. As it stands, the linking of place allocations in the two programs is a positive incentive to asylum seekers to attempt to reach Australia and apply through the onshore program.

We strongly recommend that the ALP undertakes to de-link the humanitarian program quotas in government, ensuring that offshore applicants do not experience disadvantage due to the success of onshore applicants.

COMPLEMENTARY PROTECTION

The Current Refugee Onshore Determination System is Inadequate

Australia’s onshore refugee determination system has been the source of much suffering due to an inherent inequality in its manner of processing refugee claims for asylum. We strongly recommend that this inequality be rectified to ensure that all who are owed our protection are dealt with in an equitable and compassionate manner, in line with our international human rights commitments.

Currently, the onshore determination programme makes an assessment of all refugee claims against the Convention Relating to the Status of Refugees, the primary international document under which refugees are owed protection and assistance. However, the initial stage of refugee determination does not take into account the fact that the Refugee Convention’s definition of a ‘refugee’, which is quite narrow, is complemented by a variety of other humanitarian instruments, to which Australia is a party. Applicants whose case is based on one of these other instruments, whose legitimate protection needs are widely acknowledged, are thus shunted through a system which does not address their needs.

Under the existing process, asylum seekers who claim protection for humanitarian or non-refugee reasons must first lodge a claim for a protection visa against the Refugee Convention definition, then seek review by the Refugee Review Tribunal (RRT). Neither of these stages of application is empowered to take into account non-Refugee Convention claims for asylum. This current process creates unnecessary duplication of work for the Department and an additional workload for the RRT. Time and resources
are wasted in a process that forces claimants to make false claims against Refugee Convention criteria and to then seek merits review, based on the same inappropriate criteria, of their claim. At the end of this lengthy and arduous process claimants are forced to seek Ministerial intervention under the discretionary, non-compellable, non-reviewable powers granted by the Migration Act, which is the first procedural stage at which their humanitarian claims may be addressed.

This is an entirely inappropriate use of the Ministerial power, which lacks accountability and transparency and is unsuitable for use in the assessment of routine applications from humanitarian applicants. There has also been some confusion around the criteria used to make Ministerial determinations in the past. The following observations are drawn from experiences of the church in assisting asylum seekers, and were raised in a joint submission to the Humanitarian Program in 2003 by UnitingJustice and by the Asylum Seeker Project at Hotham Mission, a Uniting Church service provider that works with asylum seekers in the community during their appeals. They included:

- similar cases resulting in different outcomes
- the Minister failing to intervene in cases of serious humanitarian concern
- lack of status, rights and access to support for people awaiting 417 decisions which included inadequate access to legal support for the preparation of 417 requests
- connections to Australia being given more importance than humanitarian concerns.

Uniting Church agencies and individuals have been involved in a number of cases where the asylum seekers were found by the Minister to have non-Convention protection or humanitarian needs. These cases were unnecessarily dragged through refugee processing and RRT review instead of being heard on humanitarian grounds at or following the primary stage. By this stage, asylum seekers have commonly been detained for long periods and suffered confusion, uncertainty and the threat of deportation; in some cases, they have been left destitute in the community without the right to work or access healthcare (see section, ‘Asylum Seekers in the Community’, p. 11). These might include people who are torture and trauma survivors, or whose human rights have been grossly violated under circumstances not captured under the Refugee Convention; who would face torture and death on return to their country of origin; who are stateless; whose home country is no longer safe for them due to civil war and the breakdown of the rule of law. It is clear that such peoples’ wellbeing is significantly impacted by the uncertain, unaccountable and drawn out process which they were required to undertake.

**Complementary Protection – The Way Ahead**

In 2004, the Uniting Church endorsed a document from the Refugee Council of Australia, National Council of Churches in Australia, and Amnesty International Australia, *Complementary Protection, The Way Ahead*. This document discusses the idea of “Complementary Protection”, a system designed to address asylum claims on the basis of humanitarian criteria at the primary stage of an onshore protection claim. We would commend this model to the Federal ALP in your review of immigration policy.

Complementary protection entails assessment of claims against humanitarian criteria at the primary stage of an onshore protection visa claim. Asylum seekers granted protection under the complementary protection scheme would have a ‘de facto refugee’ status, with the same rights and entitlements afforded to refugees. This primary site
assessment would dramatically reduce lengthy appeals and their associated costs, both financial and human, and would rectify the current misuse of the Ministerial power. Expanding the criteria against which the Department and RRT (or its successor) can judge protection needs would allow a more thorough, transparent and manageable system.

We note that current ALP Federal policy includes at 3(iv) the creation of a new Refugee Determination Tribunal system, which would refer appeals to Federal Magistrates, and a review of the processing system. Such a model would be vastly more useful than the current system, which is both cumbersome and opaque and which in our view has been the cause of injustice and unnecessary suffering. However it is important that a new system address the issue of the two-tier determination system as a matter of urgency, incorporating the principles of complementary protection at the initial stages of determination.

In the operation of such a tribunal and in any future operations of the determination process, we would recommend that the Federal ALP adopt the Complementary Protection model as a measure which would increase the value of the refugee determination system. The Complementary Protection model would bring Australia in line with world best refugee practice, by ensuring equality of access to protection mechanisms and reducing the harmful impacts of the current system on the wellbeing of humanitarian entrants. Complementary Protection would ensure compliance with our international human rights obligations in a compassionate and practical way.

AN END TO INDEFINITE MANDATORY DETENTION

Safeguard the Welfare of Asylum Seekers
The Uniting Church opposes indefinite mandatory detention of asylum seekers, a policy that appears to be upheld by the ALP’s current policy position. While current ALP policy supports ‘best practice’-style time targets on the processing of refugee claims, it makes no suggestion that the current Government’s indefinite detention policy will be overturned.

Indefinite mandatory detention, as it is currently administered, is an extremely harmful policy that impacts detrimentally on asylum seekers. No Government should uphold the principle of indefinite mandatory detention. The Uniting Church has been involved in cases where the applicant has languished in a detention centre for periods of time extending over several years, and our concern in many of these cases has been the impact on the mental and physical health of the applicant. Other problems for applicants in these cases are compounded by the indefinite nature of the detention, which means that there is no guarantee that any particular case will be resolved at all. The timely resolution of cases relies on the goodwill of the Minister to process 417 claims within an appropriate period.

This lack of time limits to arbitrary detention is one of our key concerns. In July of 2005, the Uniting Church’s Assembly Standing Committee adopted a statement opposing the use of refugee warehousing as a third solution to managing world refugee crises. Refugee warehousing refers to the politics and practice of legally and geographically isolating populations of asylum seekers for lengthy periods of time, rather than providing realistic return or resettlement options. While it may seem extreme to compare the
Australian situation to those situations that exist in Sudan or on the Thai-Burma border, the reality is that the Australian refugee situation does not prevent the long-term, indefinite detention of asylum seekers. We have already seen the damage wrought on detainees’ mental and physical health by long-term detention on Nauru and in onshore detention centres.

Indefinite detention must end, and be replaced by reception processing with strict limits on duration and independent monitoring of the conditions under which asylum seekers are detained. Under a system of complementary protection, this process would apply to both Refugee Convention and humanitarian applicants. Any detention beyond strict time limits must be subject to judicial review, and there must be an end point to the process of detention – a legal point at which no person can be detained any longer, and must be issued with a bridging visa. We strongly recommend that the ALP review its current policy and adopt the ending of indefinite detention as a firm policy.

**Detention Centre Operations**
The Uniting Church maintains that the immigration system must be transparent and accountable. As such we welcome ALP policy that would see detention centres taken out of the hands of private contractors, and placed under the care and management of the state. This is of primary concern in ensuring the wellbeing of asylum seekers and in connecting lines of responsibility for conditions in detention centres back to the Government.

We support the ALP’s current policy of providing open hostel style accommodation to asylum seekers who are detained after their arrival, as part of a better caring and support system for asylum seekers in the community. However we believe that this style of detention is not suitable for asylum seekers in the longer term. All asylum seekers should be issued with bridging visas and live in the community with full work and healthcare rights until such time as their claim is processed, subject to health and security checks.

**Transparency and Accountability**
In addition to the ALP’s current policy, which at 2(v) states that in government the ALP would provide access to detention centres to the media and independent medical professionals, we would recommend that the ALP guarantees access to NGOs and Church groups who provide essential support to asylum seekers. While it seems clear that access to the media and to independent medical professionals will promote an atmosphere of transparency in detention centres and in the detention system more generally, detainees have needs which are not met by either.

The Uniting Church and other non-government organisations are currently heavily involved in providing support and advocacy services to asylum seekers, both in detention and in the community. Uniting Church members, groups, congregations and agencies provide, in many cases, services that would not be otherwise available to this vulnerable group of people. Such services include financial support, legal assistance and advocacy, casework, language support, and emotional and spiritual support. This pastoral care, which we must note is offered without reference to asylum seekers’ religious convictions, is extremely important for people who under the current system are destitute and who are often recovering physically and emotionally from torture and other trauma sustained in the circumstances that led them to flee their homeland. The importance of this support is recognised by the Australian Government and such visitors
have assumed a special importance in detention centres and in the overall process of
determination.

Churches and Non-Government Organisations play an important systemic role in
monitoring the welfare of detainees in immigration detention centres, and the health of
the system as a whole. The involvement of such organisations is essential to maintaining
transparency of operations and providing feedback to Government about the suitability
and adequacy of the various aspects of the detention and determination system. The
presence of such bodies, and the expertise that NGOs and Churches have gathered in
this area, are driven by genuine concern for the people involved in the process, and not
by financial or other capital gain. Such genuine good will and expertise is very valuable
to ensuring an equitable process.

ASYLUM SEEKERS IN THE COMMUNITY

Work Rights and Healthcare
One of the leading causes of inequity and destitution for asylum seekers in the
community is the lack of access for some bridging visa holders to the right to work and to
healthcare benefits. These asylum seekers are often unable to support their basic living
requirements, except through the goodwill of charitable and benevolent organisations
including the Uniting Church and its agencies. Much of the following information is drawn
directly from the practical experiences of Uniting Church organisations and members. It
is imperative that this situation is rectified and we urge the ALP to consider this issue in
reviewing its immigration policy.

The most pressing cases of this forced destitution occur for holders of the Bridging Visa
Class E (BVE). Typically, BVE holders are denied working rights and access to the
income support scheme (ASAS) administered through the Australian Red Cross as a
result of their BVE status. Additionally, without a valid tax file number these asylum
seekers are unable to access the Medicare scheme and are cut off from access to
fundamental and necessary health and medical services. This leaves BVE holders in a
situation of destitution and dependency on Church and community organisations.

Hotham Mission’s Experience
Hotham Mission’s Asylum Seeker Project, an agency under Uniting Church auspices,
works with around 250 asylum seekers who have no rights or entitlements. With four full
time staff and many volunteers, the project seeks to provide a comprehensive range of
support to BVE recipients who have no other means of supporting themselves. This
includes casework, housing, outreach program, advocacy, a Basic Living Assistance
Program monthly cash payment, referrals to legal, medical and other services. In
addition, the organisation runs a number of support groups for asylum seekers, including
a Mother’s Group, a Youth Group and a Men’s Group. It also runs a LinkUp program
where volunteers are matched with isolated asylum seekers who have no other friends.
These groups provide social contact and support, and an outlet for people without the
means for recreation and unable to engage in even unpaid work.

In 2003, Hotham Mission’s report into the conditions of living for BVE recipients found
that BVE recipients, as distinct from other groups of asylum seekers in the Australian
community, lived in “abject poverty”, and that Hotham Mission’s clients were reliant on the agency for their basic subsistence. Effectively, the BVE arbitrarily withdraws state support for their most basic needs, and in doing so creates a situation in which some asylum seekers are unable to support themselves and their families. Problems experienced by these at-risk groups were compounded by the lack of routine medical care available to expectant mothers, children, victims of torture and trauma, and people with mental illness, and the high price of medicines for people who were not entitled to access PBS benefits.

Many asylum seekers in this situation have valuable skills that are in short supply in the Australian labour market. Hotham’s 2005 skills audit of its clients showed that 43% held professional qualifications, and 71% had skills recognised on the Skilled Migration List for the General Skilled Migration Program. These findings validate the experience of the Coalition for Asylum Seekers, Refugees and Detainees Inc, (CARAD), an ecumenical partnership in Western Australia of which the Uniting Church WA Synod is an integral part.

In addition, Hotham Mission notes that clients who exhaust their application are often given inadequate assistance in arranging their return to their place of origin. Asylum seekers who have been in the community for many years on a BVE with no source of income or healthcare often become vulnerable, disempowered, isolated, anxious and are often in debt or on charity. They are then required to somehow either self-fund departure or be removed by the Department, with no other voluntary return option available. In complex cases, the Department’s ‘assisted removal’ process may not be ideal or a greater degree of repatriation assistance and post-departure care is required.

Asylum Seekers' Welfare Must Come First

The Uniting Church strongly submits that the forced destitution of asylum seekers is unacceptable and that denying basic healthcare, shelter and the ability to work is a breach of Australia’s obligations under international human rights treaties including the UN Convention on the Rights of the Child (CROC), and the Refugee Convention. CROC ensures that all children have the right to survival; to develop to the fullest; and to participate fully in family, cultural and social life. The Refugee Convention ensures that all refugees lawfully staying in Australia must have not less favourable access to basic human services as Australian citizens. The conditions of both of these Conventions are flouted by the operation of some of the Bridging Visas granted including the BVE; the welfare of children is necessarily compromised by their denial of access to healthcare and by their parents’ inability to earn income or access welfare.

We recommend that the ALP policy review take into account the need for expeditious processing and provision for asylum seekers’ basic needs, including food and shelter. We urge the ALP to amend its policy position to ensure that all protection visa applicants are entitled to work and to healthcare benefits from the time of lodging until the completion of their claim, that ASAS be extended to cover applicants from lodging until the resolution of the case, and that vulnerable returnees have access to repatriation assistance and adequate post-departure care.

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2 Hotham Mission Asylum Seeker Project, “Welfare issues and immigration outcomes for asylum seekers on Bridging Visa E” November 2003, p. 4
3 Hotham Mission Asylum Seeker Project, Skills Audit of Asylum Seekers Living in the Community, 2005
Temporary Protection Visas (TPVs)
We note the ALP’s current policy is to continue the practice of offering temporary protection visas to unauthorised arrivals. We would like to see the ALP introduce permanent protection for all refugees and onshore humanitarian entrants who qualify for protection, while maintaining a temporary protection program as a short-term solution for humanitarian crises.

The Uniting Church does not support the use of temporary protection as a routine aspect of the onshore refugee and humanitarian programme. This is particularly the case when the temporary protection visa limits the access of refugees in the community to appropriate language support, retraining and job assistance, and access to public social services. This discrepancy in access to basic social supports makes it more difficult for TPV holders to integrate into the community. While we note that current ALP policy undertakes to redress this inequality, we feel very strongly that temporary protection, especially for TPV holders whose visa specifies that they will never be eligible for permanent protection, is a harmful policy that limits quality of life for many and risks refoulement for people whose claim to protection has been substantiated. The deterrence of secondary movements should be effected through our aid program and other humanitarian measures, and asylum seekers should not be discriminated against on the basis of their movements prior to entering Australia.

By far the most deleterious aspect of the TPV is that there are no family reunion rights attached to the visa. While TPV holders have been assessed as refugees, members of their family who have been left in the country of origin, who have equally strong cases for protection, are effectively abandoned until the TPV holder qualifies for permanent protection. The separation of family members for up to five years under this cruel system creates terrible anxiety, depression and in extreme cases an inability to plan for the future or recover from the effects of trauma and detention. It also leads to family members attempting sole illegal entry, and is a positive incentive to women and children to undertake the risky boat journeys that so often end in tragedy.

There is a place for temporary visas within the general humanitarian and immigration program; a grant of temporary asylum should be approached as a short-term, interim solution and as a response to specific and urgent circumstances. Temporary visas should be used only as a complementary aspect of the protection program. They should be used for crisis response scenarios, including in cases of displacement due to natural or man-made disaster, or in response to displacement that has occurred as a result of Australia’s military intervention or involvement in war in a particular region.

We also note that current ALP policy undertakes to provide permanent protection to some TPV holders who are determined to no longer need protection, on the basis of a “national interest” test. This approach conflates the skilled migration program with the humanitarian program, and should be reviewed for clarity. It is clear from ALP policy platform that the ALP is aware of the current situation, wherein refugees in the community on TPVs are denied access to integration support as outlined above. The ALP should be aware that this lack of support impacts significantly on the ability of TPV holders, many of whom are torture and trauma survivors and need time and support to recover from the experiences that led them to seek asylum in Australia, to find appropriate work and to contribute to the community in a way that could be rewarded by permanent visa. We recommend that the ALP review its policy to make it clearer that
permanent protection should be extended to TPV holders where additional humanitarian qualifications exist, and these should be assessed according to our international humanitarian obligations.

**LANGUAGE USE**

The appropriate use of language, along with the implementation of sound and compassionate policy, is fundamental in informing community attitudes to asylum seekers and refugees.

The Uniting Church is concerned that much of the language used to address the issue of asylum seekers in the public forum is designed to dehumanise and ‘other’ asylum seekers. Examples of language use that are inappropriate in public discourse around this issue might include referring to asylum seekers in pejorative ways as “illegal” or “unauthorised” or calling groups of people “illegals” or “queue jumpers”; referring to asylum seekers and refugees as “these people” or “those people”; and using phrases such as “genuine refugees” or talking about a “swarm” or a “flood” of refugees and asylum seekers or using racist epithets. In particular, the notion that asylum seekers whose claim has been rejected in the first instance and who are appealing their case are somehow less ‘legitimate’ than those whose Refugee Convention entitlements were recognised at the first determination is not only erroneous (as discussed earlier), but destructive.

Asylum seekers should at all times be described, discussed and addressed using appropriate language. Policies, statements, media and press work and legislation should not use language that is designed to encourage fear and hatred of asylum seekers, or to dehumanise asylum seekers or de-legitimise the process of seeking asylum. We commend Labor’s recent adoption of careful language in its public statements on asylum seekers, and we would encourage the ALP to take this commitment as far as possible within its internal and external policies and communications. We believe that it is important for Labor to incorporate a statement to this effect into its national policy platform in order to hold itself accountable to the highest standards in its dealings with asylum seekers.

*Submission prepared by Alicia Pearce*
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Policy Paper:

Asylum seekers, refugees and humanitarian entrants

This policy arises from the Uniting Church in Australia’s belief in the inherent dignity of all people. The principles it expresses reflect the Church’s commitment to work for justice and to oppose all forms of discrimination. These principles should underpin Australia’s policies, legislation, and practices toward asylum seekers, refugees, and humanitarian entrants.

Approved by the Assembly Standing Committee: 22 July 2002
Rationale

The Uniting Church in Australia was born in 1977 when the Congregational Union of Australia, the Methodist Church of Australasia and the Presbyterian Church of Australia joined together to form the nation’s only truly indigenous mainstream Christian movement. The Uniting Church shares with Australian people in the search for meaning, purpose and community in life. From its inception, it has been committed to justice and reconciliation between people. Through worship, sharing the story of Jesus, and service in the community, we witness to the belief that life is most fully found in God. Our social justice advocacy and community welfare services express our belief that every individual is equal before God regardless of background. The Church considers that the world is a community in which all members are responsible for each other and the strongest have a special responsibility for the vulnerable. Christianity teaches that all humanity will be judged by its attitude to neighbours, visitors and strangers.

In the Statement to the Nation made by the Inaugural Assembly in 1977, the Uniting Church promised to ‘seek the correction of injustices wherever they occur’, to ‘work for the eradication of poverty and racism within our society and beyond’ and to ‘oppose all forms of discrimination which infringe basic rights and freedoms’. We must help bring about a society that honours God and values others and all creation. When we do this with integrity, and as a proclamation of the Gospel, we bear witness to Christ, and enter fully into the faith and mission of the Church.4

We approach the issue of asylum seekers and refugees in the context of the words of Jesus. He spoke of a new community established on righteousness and love, and based on a fellowship of reconciliation — a community in which all members work together for the good of the whole.5 In essence, working for this kind of society is our contribution to civil society.6 When we work for freedom, human rights and the common good of the community we are expressing our faith. It is an outworking of the community of God.

This policy arises from the Uniting Church in Australia’s belief in the inherent dignity of all people. The principles it expresses reflect the Church’s commitment to work for justice and to oppose all forms of discrimination. These principles should underpin Australia’s policies, legislation, and practices toward asylum seekers, refugees, and humanitarian entrants.9

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4 Paragraph 2, Basis of Union, Uniting Church in Australia, 1992 version.
5 Rev Dr Chris Budden in Doing Justice – yet to be published
6 Rev Dr Ann Wansbrough on Civil Society see ‘Speaking Together’ (PhD thesis, University of Sydney, 2001) and ‘Principles for a Fair and Equitable Social Security System in Australia’ (UnitingCare Australia and National Social Responsibility and Justice, 2000)
7 In Australia, people who have applied for protection (onshore or offshore) and who are awaiting the determination of their status, by either the United Nations High Commissioner for Refugees (UNHCR) or the Australian Government, are referred to as asylum seekers.
8 The United Nation’s (UN) definition of a refugee is someone who has a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group. To be a refugee, a person must have fled their country of origin and be unable or unwilling to return to that country.
9 A humanitarian entrant is someone who is accepted for resettlement in Australia under the offshore humanitarian component of the migration program. This program provides resettlement to those who have experienced substantial discrimination amounting to a gross violation of human rights, and includes refugees and women at risk.
Principles

1. The human rights of all people must be upheld at all times.

1.1 All people should be treated with respect and accorded the dignity they deserve as human beings.

1.2 We must uphold the rights recognised under the Universal Declaration of Human Rights.

1.3 All people have a right for their cultural background to be respected.

1.4 We must uphold the rights recognised under, and fulfil our obligations under, all UN treaties that Australia has ratified, including the Convention on the Rights of the Child and the Covenant on Civil and Political Rights.

1.5 The rights of asylum seekers and refugees must be upheld at all times.

1.6 We must fulfil Australia’s obligations under the Convention and Protocol Relating to the Status of Refugees.

1.7 We must strive to meet recommendations made by the United Nations High Commissioner for Refugees (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.

2. The Australian response toward asylum seekers and refugees should be culturally sensitive and should take into account the situations from which people have come.

3. Australia’s policies and legislation should reflect a commitment to the rights and safety of asylum seekers and refugees and should clearly distinguish these from issues of border protection and security, and from attempts to deal with people smuggling.
4. **There should be no discrimination in the treatment of asylum seekers, refugees and humanitarian entrants.**

4.1 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 movements prior to their application for protection or resettlement being made.

4.2 There should be no discrimination, within Australia’s offshore resettlement program, on the basis of an entrants movement to a third country or attempted entry into Australia.

4.3 There should be no discrimination, within Australia’s onshore protection program, on the basis of movement to a third country or entry into Australia.

4.4 All people accepted under Australia’s onshore protection program or offshore resettlement program should have full access to settlement support, public services, and social security.

5. **We must use appropriate and sensitive language when we describe and discuss refugees and asylum seekers.**

5.1 Government policies and statements must not use language that encourages fear and hatred towards refugees and asylum seekers.

6. **We must help those who come to Australia seeking asylum.**

6.1 On arrival, asylum seekers should have access to the protections afforded to them in international law.

6.2 On arrival, asylum seekers should be able to notify the Red Cross and United Nations High Commission for Refugees that they have arrived.

6.3 Australia must provide adequate psychological, social, and medical care for all asylum seekers.

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

6.5 All asylum seekers should have access to government assistance to meet their basic needs from the time that they arrive in Australia.

6.6 All asylum seekers should have access to health care including trauma and torture services, Medicare and public health services from the time that they arrive in Australia.
7. **Asylum Seekers must have full legal rights and protection.**

7.1 Once a person has told the Government that they are seeking asylum they should cease to be considered to be an illegal entrant by the Australian Government.

7.2 Refugee claimants should only be detained for short pre-determined periods of time for the sole purpose of conducting health, identity, and security checks.

7.3 An independent authority should monitor the conditions under which asylum seekers are held by the government and ensure that they are being treated justly and humanely.

7.4 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 returned.

7.5 All asylum seekers should have access to legal advice and assistance to prepare their claims.

7.6 All asylum seekers should have full rights of administrative and judicial appeal.

8. **We must help those who come to Australia for resettlement.**

8.1 On arrival, refugees should be able to notify the Red Cross and United Nations High Commission for Refugees that they have arrived.

8.2 Australia must provide adequate psychological, social, and medical care for all refugees and humanitarian entrants.

8.3 All refugees and humanitarian entrants should have access to sufficient and culturally sensitive translation services.

8.4 All refugees and humanitarian entrants should have access to government assistance to meet their basic needs.
9. Australia’s policies and legislation should refer particularly to the rights and needs of child asylum seekers and refugees.

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

9.2 Trained independent guardians who can advocate and care for unaccompanied minors should be appointed to care for a child as soon as he or she is identified as an unaccompanied minor.

9.3 The specific rights of child asylum seekers, including the right to education, should be upheld.

10. Australia must take a truly global approach to refugees, asylum seekers, and displaced persons.

10.1 We must recognise our responsibilities, including our obligation to develop compassionate policies regarding the global movement of all displaced persons.

10.2 Our approach should embody the spirit of international burden sharing, in the knowledge of our nation’s relative wealth and good fortune. We should not continue to place the burden of processing refugee claims onto poor and developing countries.

10.3 Australia must demonstrate its commitment to the responsibility to protect vulnerable individuals through the formulation of generous intake numbers.

10.4 Australia must maintain its commitment to offering resettlement places for refugees referred to us by UNCHR.

10.5 Australia must maintain its commitment to our onshore protection program for asylum seekers who travel to Australia.

10.6 The migration zone for the purposes of entry into Australia and access to visa application and review processes should be consistent with the definition of the migration zone under the Migration Act 1958.
11. **The immigration system should be accountable and transparent.**

11.1 There should be respect for applicants’ rights and dignity.

11.2 Accountability and transparency within government process in the processing of refugees and asylum seekers must be ensured.

11.3 The desire to build a trading relationship with a country should not be a factor taken into account when determinations are made on the refugee status of citizens of that nation.

12. **People whose refugee claims have been rejected and who are waiting to be returned should be treated justly and humanely.**

12.1 People whose refugee claims have been rejected should have access to adequate psychological, social, and medical care (including trauma and torture services, Medicare and public health services), sufficient and culturally sensitive translation services, and government assistance to meet their basic needs.