

**Submission to the Australian Labor Party's (ALP)  
Consultation Draft of the National Platform, May  
2018**

**Jesuit Refugee Service (JRS) Australia**

## About Jesuit Refugee Service (JRS)

### An international organisation

Jesuit Refugee Service (JRS) is an international Catholic organisation, founded in 1980 as social ministry of the Society of Jesus (“the Jesuits”).

**Seeking social justice for refugees worldwide:** JRS’ mission is to accompany, serve, and advocate for the rights of refugees and other forcibly displaced people worldwide.

**Programs offering global support:** JRS works in 51 countries, assisting refugees, people seeking asylum and other displaced people in camps, detention centres, war zones and urban settings. JRS’ programs focus on access to education, emergency assistance, healthcare, livelihood activities and social services.

At the end of 2016, more than 733,400 individuals worldwide were direct beneficiaries of JRS projects.

**JRS in Australia** In 2016 – 2017, JRS Australia served more than 3,000 refugees and people seeking asylum with emergency assistance, temporary shelter, a foodbank, professional casework, community activities, employment support, school engagement, legal advice, targeted advocacy, and a project to empower women seeking asylum.

**Strong local alliances:** JRS Australia has strong links with parishes, communities and schools across Australia, religious orders, local and state governments, refugee organisations, campaigns and coalitions, and other organisations in the community in the not for profit and education sectors.

**A global presence:** JRS Australia maintains an active presence on policy development and advisory forums in the Asia-Pacific region, and at the global level, participating in international campaigns and coalitions and contributing to UN forums.

**A stronger voice for refugees:** Advocacy is a central pillar of JRS’ work. JRS’ advocacy is characterised by the following principles:

- It stems directly from our close engagement with refugees
- It flows from [accompaniment](#) and [service](#) and is linked to JRS projects
- It is based on [Jesuit values, inspired by Ignatian spirituality](#)
- It is built on solid research.

JRS Australia’s advocacy takes a number of forms including research and commentary, policy development, lobbying, and grassroots engagement with community members.

## Introduction

Jesuit Refugee Service (JRS) Australia welcomes the opportunity to provide feedback on the ALP's Consultation Draft of the National Platform. Although we are responding as policy stakeholders, and not as ALP members, we hope our feedback is received in the context of a common purpose to improve protections for refugees, people seeking asylum, and other forcibly displaced people in Australia and the Asia-Pacific region.

Our feedback pertains to 'Chapter 9: A fair go for all,' and specifically in relation to the section entitled 'Humanitarian Migration Programme' (Pg 160 – 166).

Our feedback takes a number of forms. These include highlighting issues, which may be relevant to this section, but not reflected or present within it; comments on certain sections with reference to key evidence; and suggested language changes to reflect ongoing debates within civil society and what we are seeing on the ground. Suggested text is in ***bold and italics***.

We would be happy to provide further clarification and feedback on any of the points below.

### Australia's responsibility as an international partner

Paragraph 245:

- In addition to the Refugee Convention, we would like to see reference made to the Global Compact on Refugees (GCR) and the Global Compact on Safe, Orderly, and Regular Migration (GCM) as guiding frameworks for the implementation of refugee and migration policy going forward.
- Although non-binding, the Compacts are likely to offer comprehensive and specific direction to member states on how to respond to people on the move. In their final form, they will represent the latest consensus thinking within the international community on states' responsibilities to refugees, forcibly displaced people, and migrants.
- Civil society organisations around the world will look to governments to implement policies on forced migration in line with their commitments to the Compacts.

Paragraph 246:

- Noting research from the Refugee Council of Australia (RCOA) on Australia's current funding priorities in the refugee/migration arena,<sup>1</sup> we welcome the ALP's renewed commitment to the UNHCR. We propose the following change: "...that Australia is one of the leading contributors to the global **and regional** work of the UNHCR."
- As part of this regional work, Australia could support UNHCR to expand normative and policy formulation agendas on protection with South East Asian (SEA) governments and civil society, and to recommence RSD in countries such as Indonesia.

Paragraph 247:

- We propose the following change: "...a leading role in working with South East Asian nations in the region and in particular, Indonesia, **Malaysia, and Thailand**, to build a regional framework to improve the lives of asylum seekers **and foster durable solutions**.
- Malaysia and Thailand are significant transit and destination states for refugees and other forcibly displaced people. Both have shown signs of willingness to recognise and grant certain rights to newer groups of forced migrants in the region,<sup>2</sup> which warrant recognition and encouragement in multilateral and bilateral forums.

Paragraph 249:

- We are unclear about the meaning of the term 'humanitarian regional framework' and what this means in practice, across emergencies, protracted situations, and other contexts We would welcome any initiatives to strengthen existing multilateral forums such as the Bali Process to enhance access to rights and services, and durable solutions for forcibly displaced people.

Paragraph 250:

- Addressing 'push factors' in transit countries requires a much broader strategy than engaging the UNHCR. It requires working with host governments to further rights to employment, public education, and healthcare; supporting local civil society organisations and refugee/host communities themselves to foster small businesses, social enterprises, and income generating activities; and importantly, investing in

<sup>1</sup> See Asher Hirsch and Cameron Doig, *Managing Migration in Indonesia: The Role of IOM and Australia*, available at <http://refugeereseearchblog.org/managing-migration-in-indonesia-the-role-of-imo-and-australia/>

<sup>2</sup> See Relief Web, *Malaysia in pilot scheme to allow Rohingya refugees to work*, available at <https://reliefweb.int/report/malaysia/malaysia-pilot-scheme-allow-rohingya-refugees-work> ; See Relief Web, *UNHCR welcomes Thailand's approval of framework for refugee screening mechanism*, available at <http://www.nationmultimedia.com/news/breakingnews/30304209>

and co-designing development initiatives that benefit host and refugee communities alike.

- The latter has been a key facet of success in the UNHCR-led Comprehensive Refugee Response Framework (CRRF) pilots in countries such as Djibouti and Uganda,<sup>3</sup> and context-specific versions could be applied elsewhere either through the CRRF or through a regional initiative such as the Bali Process.

Paragraph 256:

- We propose the following change: “...Labor will **re-evaluate and consider increasing** Australia’s contribution to international aid efforts **in key source and transit countries...including through identifying and supporting key diaspora organisations in peacebuilding, context-specific capacity and skill development initiatives, and growing remittances.**”
- Re-evaluating our current priorities is important because, as the Development Policy Centre’s Aid Tracker highlights,<sup>4</sup> the vast majority of Australia’s aid goes to countries in East Asia and the Pacific, not to major refugee source countries in South and West Asia. Aid allocations to the latter have fallen substantially in the last two years.<sup>5</sup>
- More problematically, aid allocations have also been tied to key offshore processing deals with Papua New Guinea, Nauru, and Cambodia, rather than focusing on reducing risks to displacement and alleviating humanitarian needs.
- There is growing evidence that established diasporas can play important roles in creating stability and fostering development in countries of origin.<sup>6</sup>

### Australia’s Humanitarian Intake

Paragraph 260:

- We propose the following change: “...a humanitarian program that reasonably responds to international humanitarian crises as they arise, **including through emergency humanitarian visa quotas for specific groups of people, additional to the annual Humanitarian Programme intake.**”
- There are established, yet ad hoc precedents for this kind of policy, including through the ALP’s decision in 2012 to grant 800 humanitarian visas to locally

<sup>3</sup> UNHCR, *March 2018 Global update on the Comprehensive Refugee Response Framework (CRRF)*, available at <http://www.unhcr.org/en-au/5ad5a9937>

<sup>4</sup> See Australian Aid Tracker, *How our aid is shared around the world*, available at <http://devpolicy.org/aidtracker/destinations/>

<sup>5</sup> *Ibid.*

<sup>6</sup> See Melissa Phillips, *Are refugee and migrant diasporas the missing piece of the development puzzle?*, available at <https://acfid.asn.au/blog-post/are-refugee-and-migrant-diasporas-missing-piece-development-puzzle>

engaged Afghan employees (LEE) and the current government's commitment to resettling 12,000 Syrian and Iraqi refugees.<sup>7</sup>

- Such an approach could be regularised and aligned with national interest prerogatives such as helping alleviate crises within host countries in SEA, and increasing settlement in rural/regional areas, whilst also catering for small numbers of people in particularly vulnerable situations – children, women-at-risk, or people with severe disability.

Paragraph 265:

We propose the following change: “...Labor in Government will abolish Temporary Protection Visas **and Safe Haven Enterprise Visas (SHEV)** and transition eligible refugees onto permanent visa arrangements, **with the same rights and access to services available to all other permanent protection/humanitarian visa holders.**”

### Refugee Assessment

Paragraph 266:

- Under dot point 1, we propose the following inclusion: “...the assessment and review of **all** protection claims will be underpinned by robust, efficient and transparent processes to ensure fair and consistent outcomes, including access to **full merits** review and independent advice.”
- Under dot point 3, based on experience with our clients, there are concerns about the inconsistent levels of evidence required, the varied basis upon which credibility findings are made, and the inconsistent use of country information in decision-making. We would recommend a consultative process with UNHCR and other legal stakeholders to re-establish clear guidelines for such requirements.

Paragraph 272:

- We welcome the ALP's commitment to abolish the fast track assessment process, however a key question remains as to whether the abolition will apply retrospectively and to what extent.
- A recent article by Dr Maria O'Sullivan of Monash University reiterates concerns about a number of aspects of the IAA process, including the “legislative presumption against the granting of oral interviews and the assumption that procedural fairness is granted to applicants at the primary stage.”<sup>8</sup>

<sup>7</sup>See Elibritt Karlsen, *Refugee Resettlement to Australia: what are the facts?*, available at [https://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/pubs/rp/rp1617/RefugeeResettlement#\\_Toc461022116](https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1617/RefugeeResettlement#_Toc461022116)

<sup>8</sup>See Maria O'Sullivan, *Fairness and Efficiency in the Migration 'Fast Track' Process*, available at <https://auspublaw.org/2018/05/fairness-and-efficiency-in-the-migration-fast-track-process/>

- Given, as Dr. O’Sullivan also notes, that protection visa decisions often rely on the “applicant’s credibility and the veracity of country information,” the latter of which can change at short notice, the importance of presenting new information and conducting a second oral interview is paramount.
- Although roughly 73% of ‘fast track’ applicants already assessed have been granted TPVs/SHEVs,<sup>9</sup> we are concerned that the IAA’s inherent limited review mandate could mean that a number of particularly vulnerable applicants (eg. those with serious mental health illness, disabilities, or trauma) may have been ‘finally determined.’
- Given the ALP’s support for abolishing this process, we urge the party to consider ways in which rejected claims can be reconsidered under a more expansive and robust review mechanism to prevent the potential for refoulement.

Key exclusions in this section – Access to support services and limited income whilst in the RSD process

- We urge the ALP to commit to providing adequate casework, torture and trauma counselling, and financial support to those people seeking asylum with significant vulnerabilities, until they can find work or obtain skills needed to find employment.
- We propose that payments are set at levels equivalent to the mainstream welfare sector and that definitions of vulnerability align with those utilised in the mainstream welfare sector.

Key exclusions in this section – Gender and Domestic/Family Violence (DFV):

- We welcome the strong language across the platform on LGBTIQ refugees and people seeking asylum, but note that there is no reference to the specific DFV challenges faced by women and girl refugees and asylum seekers in Australia.
- Recent research by Dr Marie Segrave of Monash University highlights that responses and supports made available to women who experience DFV are “dependent on migration status first and foremost.”<sup>10</sup> In practice this could mean that women are ineligible to access specialist DFV crisis services or income support payments to enable independence from an abusive partner.
- A forthcoming pilot study by JRS Australia on the experiences of women seeking asylum highlights the additional barriers to reporting DFV to authorities and the negative consequences of doing so.<sup>11</sup>

<sup>9</sup> See Department of Home Affairs, *IMA Legacy Caseload: Report on the Processing Status and Outcomes March 2018*, available at <https://www.homeaffairs.gov.au/ReportsandPublications/Documents/statistics/ima-legacy-caseload-march-2018.pdf>

<sup>10</sup> Marie Segrave (2017), *Temporary Migration and Family Violence: An Analysis of Victimization, Vulnerability, and Support*. Melbourne: School of Social Sciences, Monash University.

<sup>11</sup> Stephanie Beckwith (2018), “Free from Violence against Women and Girls (VAWG).” Sydney: Jesuit Refugee Service Australia.

- Violent partners or family members will often threaten or manipulate a women based on her visa status, or in some instances, threaten further harm if protection claims fail as a result of criminal matters.<sup>12</sup>
- Interim or apprehended violence orders (IVOs/AVOs) can trigger bridging visa cancellations, and renewed periods of detention for the perpetrator. Whilst this may mean physical safety for the victim and family, it can enforce indefinite family separation, create new material challenges – needing to find work - in an already bleak environment, and result in refusals of protection visa grants.<sup>13</sup>
- Finally, temporary migrants (outside the partner visa category) who experience DFV have no pathways to permanent residence.<sup>14</sup>
- In this context, and given the bipartisan support for addressing the high rates of domestic and family violence (DFV) in Australia, we would like to see strong commitments to support women and girl refugees and asylum seekers at risk or who have experienced DFV. Specifically:
  - That women and girls be given the option upon arrival to make separate protection applications to their spouses.
  - That victims of DFV on temporary visas be encouraged to report incidents by ensuring that criminal justice matters remain separate to the RSD process.
  - That greater federal government funding be devoted to specialist CALD-specific DFV prevention and response services, which also be made accessible to women asylum seekers.
  - That victims of DFV on all temporary visas be granted a pathway to permanent residency.

### **Immigration Detention**

Paragraph 294:

- In relation to the groups subject to mandatory detention, we note that there has been a significant increase in visa cancellations on character grounds (s501) over the last two years, including of those from refugee communities who cannot be returned to countries of origin. We urge the party to consider this phenomenon in more detail. We refer you to and endorse the Refugee Council of Australia's (RCOA) recent submission to the "Inquiry into the review processes associated with visa

<sup>12</sup> Ibid.

<sup>13</sup> Ibid.

<sup>14</sup> M Segrave (2017), *Temporary Migration and Family Violence: An Analysis of Victimization, Vulnerability, and Support*. Melbourne: School of Social Sciences, Monash University.

cancellations made on criminal grounds,” which delves into the complexities of this issue and the impacts on refugee communities in more detail.<sup>15</sup>

Paragraph 299:

- We propose the following change: “...community detention or the granting of bridging visas with work **and study** rights.”

Carolina Gottardo  
Director

Nishadh Rego  
Policy & Advocacy Coordinator

---

<sup>15</sup> See Refugee Council of Australia (RCOA), *Submission to the inquiry into the review processes associated with visa cancellations made on criminal grounds*, available at <https://www.refugeecouncil.org.au/publications/submissions/visa-cancellations-reviews/>