

**Submission to the Department of Home Affairs (DHA)
Discussion Paper on Australia's Humanitarian
Program 2018 - 2019,**

**Jesuit Refugee Service (JRS) Australia
May 2018**

About Jesuit Refugee Service (JRS)

An international organisation

Jesuit Refugee Service (JRS) is an international Catholic organisation, founded in 1980 as a 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, JRS served, accompanied and advocated for more than 733,400 individuals worldwide.

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 Department of Home Affairs (DHA) Discussion Paper on Australia's Humanitarian Program 2018 - 2019.

Our feedback is focused on the following four areas:

- The Global Compact on Refugees (GCR) and the Global Compact on Safe, Orderly and Regular Migration (GCM)
- Australia's Migration Program and Complementary Pathways
- Protecting Forcibly Displaced Peoples in the Asia Pacific Region
- Onshore Protection
- Family Reunion

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

1. The Global Compact on Refugees (GCR) and the Global Compact on Safe, Orderly and Regular Migration (GCM)

1.1 JRS Australia welcomes the Australian government's comprehensive engagement with civil society during the Compacts negotiations, and look forward to the same going forward.

1.2 JRS Australia acknowledges reference to the negotiations for the GCM and GCR in the discussion paper. We recognise the importance of the Compacts as key instruments in the future global governance and protection of refugees, other forcibly displaced peoples, and migrants in situations of vulnerability.

Mixed Migration

1.3 The New York Declaration for Refugees and Migrants 2016 ('the declaration') clearly recognises the reality of mixed migration. Paragraph 11 "acknowledges a shared responsibility to manage large movements of refugees and migrants in a humane, sensitive, compassionate and people-centred manner."¹ It also recalls the international community's "obligations to fully respect human rights, fundamental freedoms, safety and dignity of refugees and migrants."²

1.4 Mixed migration is a significant phenomenon in the Asia Pacific region. In addition, most countries in our region are not signatories to the Refugees Convention or its 1967 Protocol and approach forced migration as a matter of immigration control and national security. In

¹ General Assembly resolution A/71/L1 New York Declaration for Refugees and Migrants, A/RES/71/L1 (19 September 2016), see <http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/71/1>

² Ibid.

practice, this means that undocumented migrants in a large number of states across the region, regardless of country of origin, motivation for leaving, or ability to return home, have limited rights and access to services. The ongoing situations of Afghan Hazaras in Indonesia, and Chin in Malaysia and India are strong cases in point.³

Complementarity

1.5 In this context, it is vital to ensure complementarity between the Compacts. What this means is that both Compacts should include strong baseline human rights protections for all migrants, including those who do not fit neatly into established legal and socio-political categories of involuntary and voluntary migration. These include people seeking asylum, victims of trafficking, stateless people, internally displaced people (IDPs), people displaced due to natural disasters, migrant workers, international students, and spousal/family reunion visa-holders that find themselves in exploitative or violent situations, or suddenly cannot return home.

1.6 Complementarity can be reflected in the Compacts and operationalised on the ground in a number of ways:

1.6.1 Regularization and complementary pathways are defined differently across both Compacts, but are relevant to all migrants, including refugees and people seeking asylum. Such pathways include enhanced labour mobility schemes, broadening options for family reunification, expanding access to student and women-at-risk visas, and investing in private/community sponsorship programs.

1.6.2 Regularization pathways are especially important to specific identity groups, such as women survivors of sexual and gender-based violence (SGBV), or LGBTI persons, who may need support to escape persecution in countries of origin, and support to break free of individualised violence from family or community members in host or destination countries.

1.6.3 Identity documents, reception arrangements, and admission protocols must be standardized for all migrants regardless of background, motivation for leaving home, mode of arrival, or visa status upon arrival.

1.6.4 Access to justice and basic services pertain to refugees, other forcibly displaced persons, and all other migrant groups. In the Australian context, migrants who are at risk of or survivors of SGBV, or other forms of crime will only feel safe to engage the criminal justice system if they feel confident that reporting a matter to the police will not have adverse consequences for their visa status, and that they will be supported

³See Amy Pitonak, *Pressure to return? Afghan refugees protest at Indonesian detention centre*, available at <<https://reliefweb.int/report/indonesia/pressure-return-afghan-refugees-protest-indonesian-detention-centre>> ; See Amy Alexander, *Without Refuge: Chin refugees in India and Malaysia*, available at <<http://www.fmreview.org/burma/aalexander.html>>

to leave an abusive relationship via access to accommodation, temporary income support, and work rights.

Non-Refoulement

1.7 The right to non-refoulement is established as the most fundamental form of international protection, and should apply to all migrants in danger of suffering serious harm, torture, or persecution upon return to his/her country of origin or habitual residence. Non-refoulement should be reflected in both Compacts, and can be operationalised in key ways:

1.7.1 Governments ensuring that people seeking asylum and other migrants have adequate opportunities to articulate their claims to protection, including with qualified legal support/interpreters, and with access to full rights of merits review by independent tribunals.

1.7.2 Governments conducting human rights compliant and gender sensitive individualised assessments of risks of harm, torture, or persecution before returning a person.

1.7.3 Governments refraining from group expulsions based on blanket assumptions about safety in a particular geography.

Child Detention

1.8 JRS Australia endorses the Inter-Agency Working Group (IAWG) to End Child Immigration Detention's statement from May 2018:

1.8.1 "The IAWG strongly encourages States to ensure that the Global Compacts do not allow for the possibility of detaining children, not even as a last resort nor for the shortest period of time. Instead the Compacts should lay the groundwork to provide better child reception and protection systems by implementing effective child-sensitive, non-custodial, community-based alternatives that prioritize human rights and the best interests of the child as the essential key to operationalise States' obligations under international human rights law. We encourage States to take the opportunity of the Global Compacts to develop regional or national action plans with time-bound milestones outlining how they intend to end the practice of child immigration detention in law, policy, and practice."⁴

Implementation

1.9 Although the details of implementation are yet to be worked out, a number of key principles should underline these efforts:

⁴ See Inter-Agency Working Group (IAWG), *Child Rights Experts Call on Member States to End Child Immigration Detention: There Are Alternatives*. May 2018.

1.9.1 Just as complementarity is a strong focus of the consultative and negotiations processes, JRS Australia proposes that issues of complementarity are included within the scope of monitoring, evaluation, and learning frameworks and that they be explicitly considered by any mechanisms and groups that may be established within the scope of the GCR (such as the Global Support Platform) and of the GCM.

1.9.2 In accordance with whole-of-society approaches outlined in the Compacts, it is important for implementation to be coordinated across the UN system globally, regionally, and in each country. Relevant UN organisations in each displacement context include IOM, UNHCR, UN Women, UNICEF, and ILO among others.

1.9.3 State should create clear mechanisms within existing domestic governance systems to implement provisions in the Compact. It is also important for the Australian Human Rights Commission (AHRC) and other statutory bodies to be able to monitor implementation of the Compacts, and report findings in public to domestic and global audiences.

1.9.4 Refugees, people seeking asylum and others with relevant experience, in particular refugee and migrant women, must be given genuine platforms – through established forums such as the DHA-NGO Dialogue or through specific Compact-focused meetings – to share their views and concerns about where implementation is compliant and non-compliant, and how it can be strengthened on the ground.

Many of the points under the following sections propose mechanisms by which the above agendas can be feasibly implemented in Australia

2. Australia's Migration Program and Complementary Pathways

2.1 JRS Australia welcomes the Australian government's increase in the number of humanitarian program places from 16,250 to 18,750.

2.2 JRS Australia calls for the government to consider a higher proportion of skilled migration places for refugees within Australia's migration program. Such a proposal is based on the recognition that many refugees are skilled, and could contribute equally to those classified as skilled migrants, particularly if appropriately selected to fill skill shortages or live in regional areas. Key evidence supporting these ideas is outlined below:

2.3 A number of recent publications highlight the positive links between migration levels and long term economic performance, coupled with concerns about population distribution and the socio-economic costs of increasing urban density in specific LGAs.

2.3.1 For example, *Shaping A Nation: Population Growth and Immigration Over Time* (2018) tells us that migrants of working age who have skills to contribute to the

economy create higher rates of workforce participation, productivity benefits, and improvements in the Commonwealth's fiscal position, given migrants are likely to contribute more tax revenue than they claim in social services or government support.⁵ The report also notes that high rates of population growth can heighten existing pressures on infrastructure, housing and the environment.

2.4 There is growing consensus amongst academic, policy, and INGO communities that refugees are skilled contributors to economies in a variety of settings.

2.4.1 Based on research in Uganda, *Refugee Economies: Rethinking Popular Assumptions* (2014) concludes that refugees are “networked within settlements nationally and transnationally; that refugees often make a positive contribution to the host state economy; that they are economically diverse and have significant levels of internal inequality; and that they are significant users and in some cases creators of technology.”⁶

2.4.2 In the Australian context, *A Significant Contribution: The Economic, Social, and Civic Contributions of First and Second Generation Humanitarian Entrants* (2011) shows that humanitarian entrants set up their own businesses to a greater extent than other migrant groups; and that they also facilitate the development of trade between Australia and their countries of origin.⁷

2.4.3 Similarly, *Small Towns, Big Returns: Economic and Social Impact of Karen Resettlement in Nhill* (2015) finds that the community's settlement in the small, regional town has generated a total of 70.5 FTE jobs and \$41.5 million in net positive economic impact.

2.5 Finally, there is also ample evidence that, if carefully coordinated in advance, refugees are willing and able to settle in regional areas, thereby helping alleviate population and socio-economic decline in particular communities, whilst also easing inequalities in population distribution over the long run.⁸

⁵ See The Australian Government the Treasury and the Department of Home Affairs, *Shaping a Nation: Population growth and immigration over time*, Canberra: The Treasury, 2018), 1.

⁶ See Alexander Betts, Louise Bloom, Josiah Kaplan, and Naohiko Omata, *Refugee Economies: Rethinking Popular Assumptions*, available at <<https://www.rsc.ox.ac.uk/files/files-1/refugee-economies-2014.pdf>>

⁷ See Graeme Hugo, *A Significant Contribution: The Economic, Social, and Civic Contributions of First and Second Generation Humanitarian Migrants – Summary of Findings*, available at <https://www.dss.gov.au/sites/default/files/documents/01_2014/economic-social-civic-contributions-booklet2011.pdf>

⁸ See Margaret Piper, *Refugee Settlement in Regional Areas: Evidence-based good practice*, available at http://multicultural.nsw.gov.au/about_us/publications/other/; See Jay Song and Daniel Thambar, *Employment as protection: complementary pathways for refugees*, available at <https://www.lowyinstitute.org/the-interpretor/employment-protection-complementary-pathways-refugees>

2.6 Such a scheme could be implemented by selecting skilled refugees either through consultations with UNHCR or private organisations such as Talent Beyond Boundaries or Refugee Talent. The scheme would need to sit outside the annual Humanitarian Program quota which is appropriately focused on refugees with significant vulnerabilities.

2.7 The cumulative costs and benefits of such a scheme would need to be carefully analysed over the medium and long term, and JRS Australia would welcome further research on these topics.

2.8 JRS Australia endorses proposals put forward by partner organisations in the Australian Community Refugee Sponsorship Initiative (CRSI), which urge up to 10,000 places per annum over the next five years, additional to Australia's humanitarian migration quota.⁹

2.9 In addition to the necessary focus on climate change mitigation, JRS Australia calls on the Australian government to expand permanent complementary pathways and consider separate visa categories for people displaced by climate in the Pacific region.

3. Protecting Forcibly Displaced Peoples in the Asia Pacific Region

3.1 According to the UNHCR, the Asia Pacific region is home to more than 7.7 million people of concern to UNHCR, including 3.5 million refugees, 1.9 million IDPs, and 1.4 million stateless people, largely originating from Afghanistan and Myanmar.

3.2 JRS Australia calls on the Australian government to take a leading role in responding to forced displacement emergencies whilst working towards longer term regional protection solutions based on the principle of responsibility-sharing, fostering durable solutions, expanding complementary pathways, exerting diplomatic pressure, restructuring aid in line with regional priorities, and facilitating private and INGO investments in refugee communities.

3.3 These approaches can be implemented via multilateral forums such as the Bali Process, bilateral discussions, closer cooperation with the UNHCR and civil society coalitions such as the Asia Pacific Refugee Rights Network (APPRN). Potential mechanisms could include:

3.3.1 Restarting resettlement of refugees from the region, particularly Rohingyas in Bangladesh, and refugees in Indonesia, both as a way of offering durable solutions to people owed protection, and demonstrating political leadership in this public policy arena.

3.3.2 Leading discussions on the implementation of the Comprehensive Refugee Response Framework (CRRF) in the context of Rohingyas in Bangladesh.

⁹See Community Refugee Sponsorship Initiative, available at < <http://www.ausrefugeesponsorship.com.au/the-solution/>>

3.3.3 Increasing funding to UNHCR to help them implement longer term protection agendas in line with the guiding principles of the Compacts.

3.3.4 Cooperating closely with the governments of Indonesia, Malaysia, and Thailand – all of whom have recently demonstrated willingness to recognise and grant rights to specific forced migrant groups in the region - to develop key principles for regularising vulnerable migrants' legal status, and offering access to basic services.¹⁰

3.4 JRS Australia welcomes the Australian government's provision of up to \$51.5 million in humanitarian funding for Rohingyas in Bangladesh. JRS Australia calls on the government to 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.

3.4.1 Re-evaluating our current priorities is important because, as the Development Policy Centre's Aid Tracker highlights,¹¹ 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.¹²

3.4.2 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.

3.4.3 There is growing evidence that established diasporas can play important roles in creating stability and fostering development within countries of origin, and that more can be done to support these communities in Australia.¹³

3.5 JRS Australia welcomes the government's allocation of 12,000 additional resettlement places for people from Syria and Iraq between 2015 and 2017. JRS Australia acknowledges the hard work done by Fairfield City Council, Multicultural NSW, and a range of other stakeholders to ensure that the settlement process was a success.

¹⁰ 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>

¹¹ See Australian Aid Tracker, *How our aid is shared around the world*, available at <http://devpolicy.org/aidtracker/destinations/>

¹² *Ibid.*

¹³ 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>

3.6 JRS Australia believes that such emergency humanitarian visa quotas for identified groups with specific vulnerabilities could be regularized 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 – women-at-risk, children, or people with severe disability.

4. Onshore Protection

4.1 JRS Australia is concerned at the steady decline in the number of protection visa grants annually from the periods of 2013-2015 to 2016-2017, especially given the increase in applications lodged as per the last available data.¹⁴ JRS Australia recommends that the number of onshore places be increased or de-linked from the humanitarian program in order to address the backlog of people who are in the process of seeking protection.

4.2 JRS Australia is concerned about a policy change that will see those who arrive in Australia on substantive visas no longer eligible for Status Resolution Support Service (SRSS) payments until their substantive visa expires. JRS Australia is aware that people who apply for protection once in Australia often experience sudden losses of status, income, and community support, necessitating such service supports.

4.3 These circumstances can often apply to women who are at risk or survivors of domestic/family violence (DFV).

4.3.1 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.”¹⁵ 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.

4.3.2 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.¹⁶

4.3.3 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.¹⁷

¹⁴ See Department of Immigration and Border Protection (DIBP), *Onshore Humanitarian Programme 2015-2016: Delivery and outcomes for Non-Illegal Maritime Arrival (Non-IMA) as at 30 April 2016*, available at <https://www.homeaffairs.gov.au/ReportsandPublications/Documents/statistics/ohp-april-16.pdf>

¹⁵ Marie Segrave (2017), *Temporary Migration and Family Violence: An Analysis of Victimization, Vulnerability, and Support*. Melbourne: School of Social Sciences, Monash University.

¹⁶ Stephanie Beckwith (2018), “Free from Violence against Women and Girls (VAWG).” Sydney: Jesuit Refugee Service Australia.

¹⁷ Ibid.

4.3.4 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.¹⁸

4.3.5 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 visa 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 or visa status.
- 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 and vulnerable migrant women
- That victims of DFV on all temporary visas be granted a pathway to permanent residency.

4.4 JRS Australia also acknowledges the shifts in countries of origin for onshore protection applications in the last few years. JRS Australia urges the Australian government to maintain a common RSD process with departmental interviews, full rights to independent merits review, and access to the courts, in line with the principle of assessing all protection claims on their individual merits.

5. Family Reunion

5.1 There is ample evidence on the importance of family reunification for refugee settlement outcomes. Refugees and other forcibly displaced people require urgent and prioritized access to family reunion because family members often remain in situations of acute danger.

5.2 JRS Australia endorses recommendations put forward in a joint 2017 paper by the Refugee Council of Australia and Australian Lawyers for Human Rights (ALHR).¹⁹

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¹⁸ Ibid.

¹⁹ See Sahar Okhovat, Asher Hirsch, Khanh Hoang and Rebecca Dowd, *Rethinking resettlement and family reunion in Australia*, available at <<http://www.refugeecouncil.org.au/wp-content/uploads/2017/12/Rethinking-resettlement-and-family-reunion-in-Australia.pdf>>