



## OFFSHORE PROCESSING MYTH BUSTER

### **MYTH: Offshore processing will discourage asylum seekers from arriving by boat.**

#### **FACT**

History shows that an increase or decrease in boat arrivals depends far less on our domestic policy as on 'push' factors in countries of origin such as repression, discrimination, ethnic conflict, human rights abuses and civil war. As migration expert Dr Khalid Koser has noted:

'There is wide consensus among both scholars and refugee organisations that conditions in origin countries... tend to be more important than conditions in destination countries... in explaining the movement of refugees.'<sup>1</sup>

### **MYTH: Malaysia is the best solution, as it is the one our Government currently supports.**

#### **FACT**

Malaysia is not a signatory to the UN Refugee Convention and there is no guarantee that asylum seekers processed there would be safe.

Amnesty International reports that refugees and asylum seekers in Malaysia are abused, exploited, arrested and locked up – in effect, treated like criminals.<sup>2</sup> 6000 asylum seekers and refugees are caned annually in Malaysia<sup>3</sup> and once in detention commonly face overcrowding, malnutrition, and disease.<sup>4</sup>

The High Court of Australia confirmed in August 2011 that deporting asylum seekers to Malaysia would breach our obligations under both the international Refugee Convention and our own Migration Act, as it would place asylum seekers at risk of persecution or torture without guarantees of their protection.<sup>5</sup>

### **MYTH: Nauru worked in the past and would be a more humane offshore processing option.**

#### **FACT**

Around 1,500 Asylum seekers were processed on Nauru under the previous government's Pacific Solution. Many of those previously detained on Nauru suffered serious mental health issues as a result of detention. A number were assessed at "grave risk" and were taken to Australia because of their deteriorating mental health while numerous incidents of self harm and detainees suffering from depression and psychological conditions were reported.<sup>6</sup> Andrew Metcalfe, Head of the Department of Immigration, holds firmly to the view that Nauru itself was ineffective and should not be reintroduced to process asylum seekers.<sup>7</sup>

#### **FACT**

Once found to be genuine refugees, Australia still holds the obligation to accept or resettle those held offshore. Under the Pacific Solution (2001-2006), almost two thirds of all applicants were accepted as refugees and were given permanent visas. 62% were resettled in Australia and New Zealand, and 3% were sent to Sweden, Canada, Denmark and Norway, where the refugees were found to have family living outside of their country of persecution.

#### **FACT**

In 2006 the Edmund Rice Centre tracked 41 returned Afghan asylum seekers from Nauru and found that 39 were in perilous conditions. Their report, 'Deported Back to Danger II', detailed that the Australian Government secured the return of more than half the asylum seekers on Nauru in 2003 by a "mixture of inducements and threats". The report follows an earlier account by the centre that up to nine asylum seekers and several of their children were killed on return to Afghanistan from Nauru.<sup>8</sup>

<sup>1</sup> Koser, K., 2010, 'Responding to Boat arrivals in Australia' kms1.isn.ethz.ch/.../Files/.../2010\_Koser,+Responding\_web.pdf

<sup>2</sup> Amnesty International, 'Abused and Abandoned: Refugees Denied Rights in Malaysia,' <http://www.amnesty.org/en/library/asset/ASA28/010/2010/en/2791c659-7e4d-4922-87e0-940faf54b92c/asa280102010en.pdf>, 16 June 2010.

<sup>3</sup> Amnesty International, 'Case study: Nian Vung, a refugee caned in Malaysia after fleeing Myanmar,' <http://www.amnesty.org/en/library/asset/ASA28/015/2010/en/26559f81-7b42-49e9-a1a9-2fb33b2a15ad/asa280152010en.pdf>, 6 December 2010.

<sup>4</sup> [http://www.amnesty.org.au/images/uploads/ref/abused\\_and\\_abandoned-refugees\\_denied\\_rights\\_in\\_malaysia.pdf](http://www.amnesty.org.au/images/uploads/ref/abused_and_abandoned-refugees_denied_rights_in_malaysia.pdf), [http://www.amnesty.org.au/images/uploads/news/Malaysia\\_report.pdf](http://www.amnesty.org.au/images/uploads/news/Malaysia_report.pdf)

<sup>5</sup> Lawyer's Weekly, 'Law vs policy: What next after the High Court's ruling on 'Malaysia Solution'?', 7 September 2011

[http://www.lawyersweekly.com.au/blogs/special\\_reports/archive/2011/09/07/law-vs-policy-what-next-after-the-high-court-s-ruling-on-malaysia-solution.aspx](http://www.lawyersweekly.com.au/blogs/special_reports/archive/2011/09/07/law-vs-policy-what-next-after-the-high-court-s-ruling-on-malaysia-solution.aspx)

<sup>6</sup> <http://news.smh.com.au/breaking-news-national/refugee-advocates-slam-nauru-plan-20100727-10t00.html>.

<sup>7</sup> <http://www.aph.gov.au/hansard/senate/commtee/s376.pdf>

<sup>8</sup> <http://www.erc.org.au/>



**MYTH: Nauru is a signatory to the Refugee Convention now, so we can send asylum seekers there.**

**FACT**

The Solicitor General has confirmed that neither Nauru or Papua New Guinea satisfy the High Court's requirement of having adequate protections in place for asylum seekers. They would need to amend their domestic laws to guarantee asylum seekers' safety. Alternatively Australia would need to amend our own laws to override the High Court's decision.<sup>9</sup>

**MYTH: Offshore processing is more cost effective**

**FACT**

Offshore processing is even more expensive than detention on the mainland because of the increased cost of delivering services to remote locations. The Pacific Solution, which saw asylum seekers detained on Manus Island and Nauru, cost more than 1 billion dollars over five years, or \$500 000 per person.<sup>10</sup> The Christmas Island detention centre will cost almost 1 billion dollars between 2009 and 2014.<sup>11</sup>

**MYTH: Australia needs to protect our borders from asylum seekers**

**FACT**

No boat arrival who may have been a potential threat to national security has ever gained entry into Australia. Boat arrivals are subject to the most rigorous security checks of all arrivals into Australia.

**FACT**

Offshore processing and mandatory detention only apply to boat arrivals, whilst the vast majority of asylum seekers arrive by plane with a valid visa, applying for asylum at a later date while living in the community. None have ever posed a threat to Australia's national security and many are determined legitimate refugees and granted protection visas.

**MYTH: 'Stopping the boats' is more humane than letting asylum seekers risk their lives on potentially dangerous journeys.**

**FACT**

Under Operation Relex boats travelling from Indonesia were intercepted before they reached Australian waters. The Australian Navy was ordered to deter and deny entry but generally did not assist people on these boats that were placed in danger<sup>12</sup>. Many drowned as a result, including 353 men women and children in the widely reported SIEVX incident<sup>13</sup>.

**MYTH: Strong offshore processing policy reduces people smuggling**

**FACT**

The Australian government has in fact contributed to the creation of people smuggling by restricting the legal avenues for asylum seekers to find protection in Australia. As the world's leading authority on international refugee law, Professor James Hathaway explains:

The whole people-smuggling problem is a false issue. We created the market for human smuggling. If asylum seekers could lawfully come to Australia and make a refugee claim without the need of sneaking in by boat, they would do it. But we make it illegal and create the market that smugglers thrive on.<sup>14</sup>

<sup>9</sup> 'PNG, Nauru near impossible, government says', *The Age*, 4 September 2011, <http://www.theage.com.au/national/png-nauru-near-impossible-government-says-20110904-1js2a.html>.

<sup>10</sup> Karlis Salna, 'Abbott unveils new Pacific Solution,' *The Sydney Morning Herald*, <http://news.smh.com.au/breaking-news-national/abbott-unveils-new-pacific-solution-20100527-wen3.html>, 27 May 2010.

<sup>11</sup> 'Cost of Christmas Island blows out to almost \$1b,' *The Sydney Morning Herald*, 11 May 2010, <http://www.smh.com.au/business/federal-budget/cost-of-christmas-island-blows-out-to-almost-1b-20100511-uurg.html>.

<sup>12</sup> 'To Deter and Deny', *Four Corners*, 15 April 2002, <http://www.abc.net.au/4corners/stories/s531993.htm>,

<sup>13</sup> <http://www.sievx.com>

<sup>14</sup> <http://www.abc.net.au/radionational/programs/breakfast/asylum-seeker-policy-international-refugee-law/3585712>