

Let's Clean Up Our Act!

Australia's policy on asylum seekers and refugees needs fixing, urgently. While there have been small steps forward in some areas, there have been great leaps backwards in others.

Government policies still allow for the indefinite detention of children in offshore centres with little to no access to legal help.

We still grant genuine refugees only temporary protection visas, keeping them separated from their families.

We still lock-up asylum seekers with no security assessment of whether that is necessary.

We still have a visa decision system that is biased with limited review or oversight.

We still can do so much better.

The current Migration Act has caused untold suffering: children growing up in detention, stateless people being driven to despair from 6-7 years of long-term detention, mental illnesses caused by detention, asylum seekers sent back to danger and many asylum seekers living destitute in the community with no right to work or financial assistance. All this at a cost to taxpayers of nearly \$1billion wasted on the Pacific Solution and more millions wasted on needless detention on the mainland.

We can protect our borders and Australian values at the same time. A Just Australia believes Australia can deliver border security in a humane way that is not at the expense of the human rights of asylum seekers fleeing persecution.

Australian laws should reflect Australian values

We need a Migration Act that meets Australian values and our international obligations.

Australia's Migration Act should meet the values the Federal Government is promoting in the "Values for Australian Schooling" publication. The values the Government asks Australians to live by should be the same values their Government lives by. Values such as:

- Integrity**** Act in accordance with principles of moral and ethical conduct, ensure consistency between words and deeds
- Fair-go**** Pursue and protect the common good where all people are treated fairly for a just society
- Respect** For each other, for human rights and the rule of law.
- Compassion** Awareness of the suffering of others and wanting to do something about it.

In addition, our laws should reflect the principles within the international human rights instruments Australia voluntarily agrees to uphold.

** Definitions taken from *Values for Australian Schooling* published by the Howard Government, 2005

What is A Just Australia?

A Just Australia brings together over 13,000 individual supporters, 120 non-government organisations and over 70 prominent Australian patrons to campaign for the just and compassionate treatment of refugees and asylum seekers.

We believe that Australia's policies toward refugees and asylum seekers should at all times reflect respect, decency and traditional Australian generosity to those in need, while advancing Australia's international standing and national interests.

A Just Australia believes that to achieve an immigration system that is fair, open and accountable, our Migration Act needs to be cleaned up. Join with us to make sure our Government provides Australia with a Migration Act that we can all be proud of again.

AJA's 10-point plan to 'Clean Up Our (Migration) Act' towards asylum seekers better meets these Australian values and our international obligations.

10 steps to Clean Up Australia's (Migration) Act

One important way a country demonstrates its values and principles is by signing up to an international convention or treaty. The extent to which a country is prepared to act on those values and principles is a measure of its integrity: values and principles *in action*. Up until the past decade or so, Australia had a proud history of not only signing up to important international treaties that protect basic human rights but of being at the forefront of the campaigns for and the development of such treaties. One of those rights is the right of a person to seek asylum from persecution. It is time Australia put these values back into action by adopting A Just Australia's 10-point plan, which includes:

Deterrence

1. No repelling (turning back) of boats or other removal without proper review of protection needs.

Australian personnel engaged in border patrols will be trained to ensure Australia's international and humanitarian obligations to asylum seekers are met in full.

2. No excisions of territory

Excision laws will be repealed. Asylum seekers shall be treated equally under the law, regardless of where they arrive in Australia, or where their claim is processed.

3. No offshore or third country detention or processing

Asylum seekers shall not be diverted from Australia to third countries such as Nauru or Papua New Guinea, and shall be brought to mainland Australia.

Detention

4. Detention as a last resort.

Upon arrival, health checks and a security assessment will be conducted. Children, families and other vulnerable people will be given priority to move quickly through this stage. Where there is no risk to the Australian public, asylum seekers will not be detained. Any period of detention longer than 90 days shall be reviewed by a judge or magistrate, to investigate if there is any further need to detain.

5. Humane detention and reception centres.

All detention and reception facilities will be run with an emphasis on human well-being and welfare agencies shall take a lead role in monitoring and advising on conditions. Oversight by the Commonwealth Ombudsman and Commissioner of the Human Rights and Equal Opportunity Commission (HEREOC) shall be facilitated.

6. Community-based asylum seekers allowed to live in dignity.

Asylum seekers in the community shall be able to work and provide for their own financial support as well as have access to other services.

Determination

7. Permanent protection for all who need it.

Once refugee status is granted the protection associated with it should be permanent not temporary. Additionally, many of those who do not meet refugee criteria have humanitarian claims, or protection needs under other UN Conventions. A system of credibly assessing these needs shall be established.

8. Fair and reasonable protection application process.

The process to assess protection needs shall ensure those with protection needs are not at risk of being returned to danger. All asylum seekers shall be granted complete information on the process and their legal rights. Refugee cases shall have the same rights to tribunal and court review that apply to other government decisions in Australia.

Deportation

9. No person shall be deported to danger and shall be assisted to return in dignity.

We recognize that in order to maintain the integrity of an asylum-seeking program, a government is sometimes required to deport people who have no protection or humanitarian claim on Australia. However, no person shall be deported where it is unsafe or unreasonable to do so. A system of return risk assessments shall be required prior to removal from Australia. Deportees shall at all times be treated with humanity and respect, and assisted with resettlement needs.

Durable

10. Durable solutions with an international focus

Australia's approach also needs to be broadened to make it sustainable: greater support for the United Nations, policies to address international violence, aid to asylum transit countries and increased resettlement numbers.

Why we need to Clean Up Our (Migration) Act

To paraphrase Prime Minister Howard, Australia has always decided 'who comes to this country and the circumstances under which they come'. However, up until the past decade or so Australia did so in a way which was fair, just and humane.

Following the Second World War, Australia played a major role in developing and then endorsing international human rights treaties, protecting the rights of refugees and asylum seekers. Australia was recognised around the world for its just and compassionate treatment of refugees, consistent with those international human rights standards. Since then, the refugees who have come to our shores have contributed enormously to the economic, social and cultural life of Australia.

Over the past 15 years, successive governments have reneged on those agreements and turned their backs on the fundamental Australian principles of care and compassion, at a high cost to individual refugees, our taxes, our values and our reputation.

As part of this process, the Migration Act has been amended many times for short-term political gain --- and a long term loss to Australia's reputation for fairness. The Act is now riddled with contradictions, legal ambiguities and denials of basic rights that were enacted to appease foreign countries or for domestic politics rather than for good policy purposes.

Problems with the Act

The current Migration Act does not meet the test of compassion, integrity and a fair-go, values that Australians hold dear, and values that the current Government promotes in our schools and asks us to live by. There are fundamental flaws in each of the main policy areas of deterrence, detention, determination and deportation.

Deterrence

When is Australia not Australia? When our laws only apply to some parts of Australia. As a measure to deter asylum seekers from arriving in Australia, excision laws were written so that the Government can deny some legal rights and protections to certain asylum seekers that others automatically get. This means that some are detained, including children, and some have no rights to a legally appropriate review of any negative visa decision. Our laws need to be written in a fair and consistent manner.

Detention

Our laws still allow for the indefinite detention of asylum seekers who have committed no crime and pose no threat to the Australian community. Detention is more costly than more humane alternatives of community-based processing.

Detention conditions themselves are often inhumane. Although prisons have minimum standards for conditions set into law, there are none for immigration detention, including specific rights and conditions for children. While there are some contractual "Immigration Detention Standards," these are not reviewable or enforceable under the law.

Determination

People arriving in different locations and conditions have different systems for processing visa applications. These different systems are far worse for some than others, resulting in higher rates of rejection for people from the same country, and in some places there is no right to appeal to the courts. This results in Australia returning people who are in genuine need of protection. A fundamental part of the legal system in a democracy is to provide a system of checks and balances, so that decisions can be reviewed, particularly if a person believes that a decision is wrong or unfair or based on the wrong information. Many refugees have been denied this right. This inconsistent approach results in far fewer checks and balances and protections for individuals than other legal processes in Australia.

Deportation

Some Australian laws mean we can't extradite people to face foreign courts if they might face torture or inhumane treatment. Disturbingly, in contrast our immigration laws allow us to send back asylum seekers even if we *know* they will face torture. This is because Australia has not enacted the Convention Against Torture (CAT) into domestic law. In other cases, the methods used are inhumane, such as physical restraints, removing people without saying goodbye to family in Australia, or sending people with only a limited-stay visa, to third countries from where they face inevitable deportation if caught.

Steps you can take

Social justice movements can only achieve change when the public speaks out. Generally, politicians will only respond to an issue in response to voter concern, so without the backing of committed Australians, human rights organizations have limited impact.

When you write a letter, make a phone call, send an email or raise your concerns in person with a politician, you are making an important contribution to this work. When A Just Australia and other organisations try to lobby on a specific issue, your supporting emails and faxes ensure politicians will meet with us and listen to what we have to say. When a politician wants to take action (sometimes against the current policy of their own party) your letters give them a mandate to do so. We know that individual politicians often take piles of constituents' letters to party-room meetings to justify their actions for social justice.

Sometimes it may not feel like much just to write a letter, but every small action you take joins with thousands of other small actions to form a committed and strong movement for social justice.

Ideas for Action

Vote with your values

If you value human rights, make sure you assess your local candidates' – MPs and Senators – record and vote accordingly. See the Clean Up page on our website for our evaluation of parties and candidates on this issue.

Get a copy of the lobby kit

Get a copy of A Just Australia's lobby kit via the website at www.ajustaustralia.com or call the office to have a copy mailed to you. This kit contains many ideas for steps you can take to support just and compassionate refugee policy reform.

Lobby your local member

The world of government is not different from ordinary human relations, about which you already know a great deal. Sometimes the language may be more formal and the settings different, but you already have many of the skills you require from your living experiences. So, seize the opportunity to go lobbying, if you have the chance! The best way to develop your lobbying skills is to go and do it.

Write letters

Use the AJA online letter writing program to write a letter to your local MP or Senator.

Public awareness raising

Organise an information night in your area or for a local group you are a member of. AJA can help you with this and provide speakers. There are many other ideas in the lobby kit.

Join a working group

Join an AJA working group during the election to raise awareness on this issue. If AJA does not have a group in your area we will get you in touch with a like-minded organisation taking action near your home.

Support A Just Australia

Become a financial member and/or sign up to receive the AJA newsletter on refugee and asylum seeker issues by emailing us at mail@ajustaustralia.com or via our website at www.ajustaustralia.com Please encourage your colleagues to do the same!

