



Just In Time

CLRI(NSW) Social Justice Committee

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The middle of the road...

Introduction

In 2008 we set out to keep a close eye on the election promises made by the Rudd Federal Government. By the time the first issue of *Just in Time* was published, we already had cause to celebrate, with the signing of the Kyoto Protocol and the official apology to the Stolen Generations being given in Parliament. As the year passed, the CLRI(NSW) Social Justice Committee was pleased to see that some real responses were being made by the Government to our key areas of concern.

One area in which the Social Justice Committee has always been particularly involved is the fight for the just treatment of refugees and asylum seekers. Thankfully, many decisions were made by the Federal Government in 2008 which gave us cause to celebrate.

While it is always important to maintain a critical stance and look beyond what appears in newspapers and the media, it is also important to acknowledge and applaud positive steps that are taken in response to our concerns. In this issue of *Just in Time* we outline those changes that have been made and we celebrate!

The achievement of some change, however, does not give us the excuse to relax our efforts. Improvements in some key areas of social justice policy should only give us *more* courage and motivation to agitate for further change.

Indeed, it is important at this juncture, where refugee and 'border protection' issues are re-entering the headlines, to not only acknowledge those advances that have been made, but to *protect* them from being undone in the face of a new wave of refugee arrivals.

In our first issue of *Just in Time* for 2009, we reflect on how far along the road to justice we have travelled, and what obstacles might await us on the way forward.

Pacific Solution

The Pacific Solution was introduced by the Howard Government in 2001 as a way of keeping refugees away from Australian shores. For years, detention centres on Nauru and Manus Islands housed refugees who had travelled through dangerous waters in the hope of being granted asylum in Australia.

The off-shore "solution" to Australia's refugee "problem" cost Australian taxpayers hundreds of millions of dollars and failed, if this was its aim, to deter further boats from attempting to reach Australian shores. In addition to its financial cost, the Pacific Solution inflicted serious psychological damage to those who were detained for years on end, without the usual legal recourse they would have had onshore.

Shortly after taking office, Minister for Immigration and Citizenship, Senator Chris Evans took action to end the Pacific Solution, overseeing the resettlement of over 100 refugees in Australia, people who had been kept on the islands despite having legitimate refugee status. The centres on Nauru and Manus Islands are now closed.

The harm done to people who had fled their own countries in fear, only to find themselves detained for years with no hopeful sign of being accepted by the country they approached for asylum, is incalculable. The swift action taken by the Rudd Government to end the Pacific Solution was greeted with great relief and joy.

However, some refugee advocates argue that the Rudd government has merely replaced the Pacific Solution with the Indian Ocean Solution. The detention centre located on Christmas Island is still in operation and is being used for offshore processing of any refugees who attempt to enter Australia by boat.

We may rightly question why Senator Evans, who declared that the “Howard government sought to outsource our international protection obligations to less developed countries when we should have been shouldering them ourselves” would continue the policy of off-shore processing.

The only answer to this question, it would seem, is that some of the fear stirred by the Howard Government in 2001 still lingers. Ironically, with a history of cruel and unjust treatment, refugees have more reason to fear Australia, than Australia has to fear them.

Temporary Protection Visas

In October 1999, the Howard Government introduced the Temporary Protection Visa, known as the TPV785. Asylum seekers deemed to be refugees under the UN Convention but who were unauthorised arrivals in Australia were granted the TPV785.

The TPV785 was granted for 3 years. At the expiration of the 3 years, applicants had to re-apply for protection and show once more that they were refugees. If conditions had improved in their country of origin and they were not able to prove otherwise, they were denied permanent protection. Some were given a further temporary protection visa, making a stable and comfortable life a distant dream.

The TPV was both illogical and inhumane. While on a temporary visa, the visa-holder was not able to sponsor family members to come to Australia under the humanitarian program, thus separating many fathers from their wives and children for years. The visa-holder could not leave Australia to visit their family, irrespective of circumstances, because they would be denied re-entry into Australia. For many, the stress and anxiety experienced as they awaited the resolution of their situation was the cause of psychological disorders, which linger on even after permanent protection has been granted. In light of these factors, *temporary* protection could hardly be called protection at all.

In August 2008, the Labor Government announced the abolition of the Temporary Protection Visa. Since then TPV holders have received letters advising them how to go about applying for a Resolution of Status Visa, which gives them permanent protection in Australia.

The time that each refugee has spent in Australia on a TPV will count towards the time necessary in order to apply for Australian Citizenship.

We applaud the decision to end TPVs. The policy now stands that those deemed to be refugees will immediately be granted permanent Protection Visas, allowing them the opportunity to begin their new lives in Australia free from the fear of future rejection.

Mandatory Detention

The system of Mandatory Detention was introduced by the Keating Labor Government in 1992 and was intensified and expanded both under his Prime Ministership and subsequently under the Howard Government.

Some of the most distasteful aspects of the Mandatory Detention policy were the detention of children and the fact that asylum seekers could be held in detention centres for years on end.

Refugee advocates, the Human Rights and Equal Opportunities Commission (HREOC), legal and medical professionals and some politicians stood out against the indiscriminate use of detention. Forced by opposition within his own ranks, Howard abolished the detention of children. But detention continued to be a first option, rather than a last resort, and long-term detention was the rule rather than the exception.

On 29th July 2008, Senator Evans announced reforms to the detention system that “fundamentally change the premise underlying detention policy”, “introducing new and more compassionate values”. Further, Minister Evans said: “we can have strong and effective border security while also treating people seeking our protection with fairness and humanity”. It was encouraging to read the value statements included in the Minister’s speech announcing these changes. The very title of his address was heartening: *New Directions in Detention – Restoring Integrity to Australia’s Immigration System*.

Numbers in detention have decreased markedly, particularly after the ending of the Pacific Solution. While detention centres such as the one on Christmas Island are still in operation, we are promised that refugees will only be held in detention long enough for health, character and identity checks to be carried out. We will continue to monitor the actions of the Rudd Government to ensure that the compassionate values spoken of by Minister Evans are seen in action.

Detention in Indonesia

So far this year, over 10 boats carrying asylum seekers have been intercepted on their way to Australia. Indonesia has become a popular gateway to Australia for men and women escaping Afghanistan, Iraq and Sri Lanka.

In the past boats have been intercepted and returned to Indonesian waters. Indonesia is not a signatory to the Refugee Convention, so gave no rights or care to the asylum seekers aboard these boats. The Howard Government paid \$3m per year to the IOM (International Organisation of Migration) to house them in Indonesia.

Those seeking asylum in Australia, who had faced incredibly dangerous journeys with children in the hope of finally reaching safety, faced disappointment and despair as they were left to languish in Indonesia with no hope of ever gaining refugee status there.

In February, soon after taking office, the Minister for Immigration visited Indonesia and looked into the situation. Some had been in Indonesia since 2001. Over the course of 2008 many refugees in Indonesia were been granted visas under Australia's offshore humanitarian program and have since arrived in Australia.



An explosion aboard a refugee boat that was recently attempting to reach Australia has brought refugee issues back into the headlines.

Photo: *Department of Defence*

Refugee Review Tribunal

If someone seeking asylum in Australia is denied refugee status by the Department of Immigration they have the right to have their application reviewed by the Refugee Review Tribunal (RRT).

Some members of the CLRI(NSW) Social Justice Committee have had experience accompanying refugees through this tribunal process. Having personally witnessed some of the difficulties and, at times, injustices of this process, the Committee felt it was time that a review of the RRT was conducted.

The Social Justice Committee's Refugee Subgroup wrote to Minister Evans in June last year, expressing concerns about the structure of the RRT, its proceedings, and some of its governing documents. Our concerns were illustrated with concrete examples of tribunal hearings that had been witnessed by CLRI(NSW) members.

We were pleased to receive a prompt response from both Minister Evans and representatives from the RRT. Our critiques were acknowledged and a meeting with RRT senior staff was arranged so that we could elaborate upon our concerns.

Four members of the Refugee Subgroup attended a meeting with the Principal Member, the Registrar and Senior Member of the Sydney RRT. Having spent years battling against harsh refugee policy, our members entered the meeting prepared with the facts, figures and stories that expressed their concerns. While the RRT representatives were keen to defend their members, they were also open to hearing the complaints brought forward by the Refugee Subgroup. Indeed, all who attended the meeting felt that the outcome was a positive one. Ample time was given to hearing suggestions and a real desire to improve proceedings was demonstrated by the RRT members.

The Principal Member gave his personal contact details to the CLRI(NSW) Social Justice Committee, inviting them to contact him directly in the future. The CLRI(NSW) Social Justice Committee was also invited to participate in the Community Liaison Reviews held by the RRT. These Liaison meetings allow community and advocacy groups to express concerns similar to those brought by our Refugee Subgroup. Already, the Liaison Reviews have led to positive change within RRT governing documents. We welcome the community focus that has been adopted by the Rudd Government.

The CLRI(NSW) Social Justice Committee is pleased that our action has resulted in such positive developments. We will continue to attend RRT hearings to monitor progress, assured that any future concerns will be promptly addressed.

Talking the Talk

It is no secret that Australian politics consists of a great deal of game-playing. We are, no doubt, accustomed to our politicians saying one thing and doing another. There are times, however, when these political games can have real and very serious consequences.

Since the Rudd Labor Government was elected in 2007 it has passed some crucial policy changes which have led to an improvement in the treatment of those who seek refuge in Australia. The abolition of TPVs and the end of the Pacific Solution were both supported by the Liberal Party in Parliament in the spirit of bipartisanship that was sought after the change of Government.

With this in mind, it is both surprising and disappointing that members of the Opposition have been particularly vocal in criticising Australia's refugee and border protection policies lately. Opposition members have called the very policies for which they voted "soft" and declared that they have "failed".

We should not stand for such hypocrisy in our leaders, especially when their comments can have such a significant impact upon public opinion. Even when they are not backed by action, these words can stir up the feelings of fear and resentment that prevailed at the time of Tampa in 2001. If we want this country to move forward towards justice for refugees we need not only the right policies, but the right attitudes. Focussing on people smugglers and calling them the "scum of the earth", as the Prime Minister has, distracts us from the real issue of those people who give the smugglers reason to exist.

Ongoing conflict in Afghanistan and fighting in Sri Lanka have created a new generation of refugees. Australia is legally bound by the Refugee Convention to assess each asylum seeker's claim and, if found to be legitimate, grant them protection on Australian soil. We cannot back away from this responsibility.

We encourage you to write to or email Opposition leaders to show them that you won't stand for harmful political game-playing when the futures of refugees are at stake. Follow the link on the CLRI(NSW) website <http://www.clrinsw.org> to copy a template letter.

Final thoughts...

We have begun 2009 much further down the road to justice than when we began 2008. There are many reasons for which we can celebrate, and we gratefully acknowledge the progress that the Government has made towards achieving justice for asylum seekers and refugees. However, there is still some way to go. Offshore processing, Complementary Protection (granting visas to those who may not qualify under the Refugee Convention, but who have a right to our protection), work rights for those on Bridging Visas, and Community Detention are all issues that are yet to be satisfactorily resolved. We are encouraged, however, that Minister Evans and the Department for Immigration and Citizenship are already in the process of consultation about these issues. As long as we continue to agitate for change, there is hope that we may, one day, be rewarded with justice for all those who seek our protection.

Web Links



We recommend that you visit the following sites for more information and links to ways that you can help!

To find out more about the Refugee Review Tribunal (RRT) follow the links on this page:

<http://www.mrt-rrt.gov.au>

A Just Australia provides great articles about refugee issues and suggestions of ways that you can help:

<http://www.ajustaustralia.com/home.php>

Find the contact details of your Member of Parliament:

<http://www.aph.gov.au/whoswho/index.htm>

To follow the links to template letters and to read past issues of Just in Time visit the CLRI(NSW) website:

<http://www.clrinsw.org>

Just in Time is an occasional publication of the Social Justice Committee of CLRI(NSW). Members of the committee are: Sr Jan Barnett rsj, Sr Suzette Clark rsc, Br Stephen Cram cfc, Ms Frances Egan, Sr Grace Ellul sm, Ms Jill Finnane, Fr Brian Fitzpatrick osa, Sr Margaret Hinchey rsm, Sr Geraldine Kearney sgs, Sr Anne Lane pbvm, Ms Sarah Menassa, Mr Pedro Moreira, Fr Claude Mostowik msc, Sr Kathleen O'Connor rsj, Sr Sharon Price rsm, Sr Libby Rogerson ibvm.

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