



Australian Government

Department of the Prime Minister and Cabinet

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CANBERRA, A.C.T. 2600

Sister Marian McClelland sss
Regional Co-ordinator
Sisters of the Blessed Sacrament
PO Box 259
ROSEBERY NSW 1445

Dear Sister McClelland

Thank you for your letter dated 21 May 2006 to the Prime Minister regarding asylum seekers and the proposed changes to the *Migration Act 1958*. The Prime Minister has asked me to respond on his behalf.

The Prime Minister wishes to reaffirm that the government's approach to unauthorised arrivals will continue to reflect Australia's commitment to international protection obligations. Australia has taken more than 660,000 refugees since 1945, and we are currently one of the top three resettlement countries in the world.

With regard to your concerns in relation to the Pacific Solution, third country resettlement and border patrols, it is important to note that Australia's offshore assessment process is modelled closely on that used by the United Nations High Commissioner for Refugees (UNHCR). The 1951 United Nations Convention Relating to the Status of Refugees does not set down any particular process for signatory countries to use in determining whether a person is a refugee, nor does it provide asylum seekers with a right to choose the country in which their claims will be assessed. Some 1550 people have been processed under Australian arrangements since 2001 and not one person found to be a refugee has been returned to their homeland against their will. The proposed changes will continue to ensure that people taken to offshore processing centres have access to a reliable refugee determination process and are safe and cared for, while they await resettlement or plan voluntary return to their homeland.

Individuals transferred to an offshore processing centre will not be held in immigration detention. For example, under the existing arrangements in Nauru, individuals will be issued with Nauruan visas, which will enable them to remain lawfully in Nauru. A condition of these visas, set by the Government of Nauru, is that holders must return to the centre at night. Residents of offshore processing centres, including those in Nauru, receive a high level of care and amenity. The International Organisation for Migration (IOM) currently manages the

offshore processing centre in Nauru. The IOM is an independent international organisation staffed by international civil servants who work according to the IOM's own charter. The IOM is well regarded internationally for its care and support of migrants, asylum seekers and refugees and it has done an excellent job in discharging its duty to individuals processed in Nauru with the compassion for which it is internationally renowned.

Similarly, the assessment process does not require participation by a legal adviser, but asylum seekers can make their own arrangements to obtain legal advice, if they wish. The determination process allows a person found not to be a refugee to obtain a fresh merits review of their case by another, more senior, officer of the Department of Immigration and Multicultural Affairs (DIMA).

As you may be aware, the Senate Legal and Constitutional Committee recently conducted an inquiry into the proposed legislative changes and made a number of recommendations, which the government is now considering.

Thank you again for taking the time to write to the Prime Minister.

Yours sincerely



John Matthews
Assistant Secretary
Immigration Branch

19th June 2006