



Australian Government
Department of Immigration and Multicultural Affairs

Ms Jennifer A Hautley
Conference of Leaders of
Religious Institutes in NSW
Social Justice Committee
PO Box 259
ROSEBERY NSW 1445

27 JUN 2006

Dear Ms Hautley

Thank you for your letter of 19 May 2006 to the Minister for Foreign Affairs, the Hon Alexander Downer MP, concerning the proposed legislative changes to the Australian Migration Act. Your correspondence has been referred to the Minister for Immigration and Multicultural Affairs, Senator the Hon Amanda Vanstone, as the matter you raise falls within her portfolio responsibilities. Senator Vanstone has asked that I respond on her behalf.

Australia's approach to unauthorised arrivals will continue to reflect our commitment to international protection obligations. Australia has a proud and long tradition as a resettlement destination for refugees from around the world. Australia has taken more than 660,000 refugees since 1945, and today is one of the top three resettlement countries in the world.

The planned changes to Australian legislation will widen the class of unauthorised arrival who will be covered by the existing offshore processing arrangements. From 13 April 2006 people who arrive in Australia by sea without authority may be moved to offshore processing centres in another country, outside Australia, for the assessment of any asylum claims. The changes regularise policy and ensure consistency in the treatment of all unauthorised boat arrivals, addressing current incongruities.

The arrangements ensure that people taken to offshore processing centres have access to a reliable refugee determination process and are safe and cared for while any people found to be refugees await resettlement or plan voluntary return to their homeland. In reference to Nauru, unauthorised arrivals would be accommodated under Nauruan visas and an open centre arrangement which will enable women and children to move freely at any time during the day.

The 1951 United Nations Convention Relating to the Status of Refugees does not set down any particular process for the signatory countries to use in deciding who are refugees. The Convention also does not provide asylum seekers with a right to choose the country in which their claims will be assessed. These are matters for countries to settle.

people our business

6 Chan Street Belconnen ACT 2617

PO Box 25 BELCONNEN ACT 2616 • Telephone (02) 6264 1111 • Facsimile (02) 6264 4466 • Website: www.immi.gov.au

Under the Refugees Convention it is open to a country to make different arrangements to address its refugee protection obligations for people on the basis of whether their entry to a country is lawful or unlawful. The Convention itself contains different provisions for dealing with refugees depending on whether their entry to, or presence in, a country is lawful.

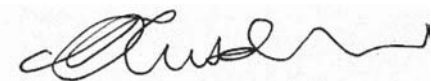
Australia's offshore assessment process is modelled closely on the process used by the United Nations High Commissioner for Refugees (UNHCR) and those assessed in Nauru by Australian officers delivered comparable outcomes to those assessed in Nauru by the UNHCR. The assessment process does not require participation by a legal adviser, but asylum seekers can make their own arrangements to obtain legal advice, if they wish. Australia's 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. Some 1550 people have been processed under these arrangements since 2001 and not one person found to be a refugee has been returned to their homeland against their will.

The Australian Government will also increase its capacity to patrol Australia's northern waters. Each unauthorised boat attempting to reach Australia will continue to be handled according to individual circumstances.

People found to be refugees under the offshore process will remain offshore in safety until resettlement to a third country is arranged.

I appreciate you raising this matter.

Yours sincerely



Alan Hutchinson
A/g Assistant Secretary
Onshore Protection