

12 September 2011

Julie Dennett  
Committee Secretary  
Senate and Constitutional Committees  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia

Dear Ms Dennett

On behalf of Ethnic Communities' Council of Victoria (ECCV) I am pleased to submit the attached submission to the inquiry into the agreement between Australia and Malaysia on the transfer of asylum seekers to Malaysia to the Senate Standing Committee on Legal and Constitutional Affairs.

ECCV is a state-wide peak body that represents Victoria's migrant and refugee communities, with approximately 200 members from over 60 ethnicities. We regularly consult with our members and community stakeholders and advocate to all levels of government on behalf of multicultural communities. Our focus is on fostering a harmonious Victorian society that celebrates cultural diversity and ensuring equity and access to services for people from culturally diverse and non-English speaking backgrounds including refugees and people with previous asylum seeker status.

ECCV would like to see all political parties in Australia cooperate to introduce a fair and equitable solution that retains the humane and compassionate treatment of asylum seekers regardless of their mode of arrival.

Yours sincerely

(...)

Sam Afra JP  
Chairperson  
ECCV



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**ECCV Submission  
to the Inquiry into  
The Agreement between Australia and Malaysia on the  
Transfer of Asylum Seekers to Malaysia  
to the  
Senate Standing Committee on Legal and  
Constitutional Affairs  
September 2011**

Ethnic Communities' Council of Victoria (ECCV) is the statewide peak advocacy body that lobbies all levels of government on behalf of Victoria's multicultural communities. For over 30 years ECCV has remained the principal liaison point between ethnic communities, government and the wider community and has been a key player in building Victoria as a harmonious and multicultural society.

ECCV welcomes the opportunity to make a submission to the inquiry into the agreement between Australia and Malaysia on the transfer of asylum seekers to Malaysia to the Senate Standing Committee on Legal and Constitutional Affairs.

**1. Change of transfer agreement**

ECCV acknowledges that the Australian High Court has recently made the transfer of asylum seekers to Malaysia unlawful. ECCV requests that this submission still be considered in view of this change as our core focus is on fostering a harmonious Victorian society that celebrates cultural diversity and ensuring equity and access to services for people from culturally diverse and non-English speaking backgrounds including refugees and people with previous asylum seeker status.

**2. Refugee health and wellbeing**

Not-for-profit ethnic welfare organisations and multicultural centres repeatedly deal with refugees and emerging communities that have experienced pre-migration and pre-settlement trauma and hardship. Some of those people are challenged by mental health issues. ECCV would like to focus this submission on interventions that reduce the risk of hardship faced by refugees and ease their adaptation into life in Australia with enhanced health and wellbeing.

**2.1 Recommendation:**

That asylum seekers have fair and equitable access to culturally responsive health and mental health support while their claims are being processed.

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### **3. International human obligations**

ECCV recognises that Australia must accept its international human obligations in response to the continuing global flow of refugees in the 21<sup>st</sup> century. ECCV believes Australia has an obligation to offer protection and respect for the human rights of people seeking asylum. ECCV acknowledges that the Australian Government is trying to address border security through its international transfer agreements. ECCV particularly welcomes the Australian Government's intention to increase the number of people for resettlement to 4,000 refugees over four years.

#### **3.1 Recommendation:**

That the Australian Government continues its policy to accept and resettle a minimum of 4,000 refugees over four years.

### **4. Cross-party responsibility**

It is important to foster a positive and accepting community attitude towards newly arrived refugees and those people seeking protection in Australia. Whilst the solution to dealing with migration issues concerning people seeking international protection is complex regarding relevant laws, regulations and international responsibilities and beyond the expertise of ECCV, we believe that it is important for Australia to have a consistent cross-party approach to dealing with asylum seekers whereby all parliamentarians and political parties work together to introduce a fair and equitable solution. All political parties in Australia should work together to achieve a compassionate human rights approach to the treatment of asylum seekers. One agreed approach to accommodating and processing asylum seekers would be a positive step towards minimising unfair blaming and scapegoating of people who have already suffered hardships on arrival.

#### **4.1 Recommendation:**

That all political parties in Australia cooperate to introduce a fair and equitable solution that includes the humane and compassionate treatment of asylum seekers regardless of their mode of arrival.

### **5. Human rights and compassion**

ECCV advocates a compassionate and humanitarian approach to the treatment of asylum seekers in line with the Universal Declaration of Human Rights (UDHR). ECCV would like to see a comprehensive refugee program that respects the rights of all asylum seekers. Such a response should uphold their rights, equality and dignity in the spirit of international human rights laws. Everyone, including Australian citizens and asylum seekers have the right to freedom and safety. The function of human rights laws is to ensure that

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governments exercise responsibilities to vulnerable groups and uphold the rights of all individuals.

#### **5.1 Recommendation:**

That the Australian Government recognises and upholds the human rights of asylum seekers in particular of those who travel irregularly by sea to Australia.

### **6. UNHCR responsibility**

ECCV believes that assessment and processing of all asylum seekers' claims are the responsibility of the United Nations High Commissioner for Refugees (UNHCR). Australia has the responsibility to ensure that refugees and people seeking international protection are not treated as lesser individuals than any other of our country's citizens. Before agreeing to a transfer arrangement between governments Australia should, therefore, guarantee that it is in a position to monitor the UNHCR process in any proposed country, including Malaysia.

#### **6.1 Recommendation:**

That the Australian Government guarantees and monitors all basic human rights and security needs of asylum seeking transferees to other countries and ensures they are fair, adequate and appropriate.

### **7. Australia has a leadership role**

Although the Australian Government is trying to deter the people smugglers, asylum seekers should not be punished in that process. ECCV acknowledges that many asylum seekers who arrive by sea are victims of people smugglers who prey on the desperation of others. Those people who are fleeing life-threatening and traumatic situations in their source countries, which may not even be their countries of origin, are seeking offers of hope for a better life. Based on these hardship circumstances it is unlikely that offshore transfer and resettlement agreements between governments would be a deterrent to future arrivals.

Whilst the responsibility for processing the claims of asylum seekers lies with the UNHCR, ECCV believes Australia could play a significant leadership role in providing resources to the UNHCR to ensure the necessary fair treatment of asylum seekers. Australia is a major western immigration country and as such should share the burden on the international level.

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#### **7.1 Recommendation:**

That the Australian Government takes on global leadership to ensure that the UNHCR is provided with the necessary and adequate resources in order to be able to process all asylum seeker applications to deliver the best outcome for those involved.

### **8. Fair and timely processing**

ECCV would like to see asylum seekers who arrive in Australia accommodated in properly designed facilities whilst their claims are processed in a shorter and more predictable and transparent way. In addition ECCV strongly advocates that culturally responsive support be provided for approved refugees when they are moved into the community to ensure a smooth transition to life in Australia.

Furthermore ECCV believes that asylum seekers should be allowed to live in the community after a short period for health and identity checks. They should be allowed ongoing access to employment opportunities and access to appropriate medical care. Children should be ensured access to education.

#### **8.1 Recommendation**

That Australia provides additional resources to shorten the waiting period for processing asylum seeker claims and allocates adequate resources to community welfare organisations to resettle new arrivals with positive outcomes.

For further information contact:

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