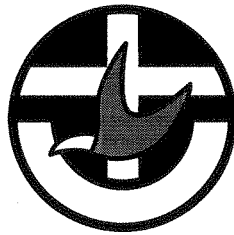


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Uniting Church in Australia

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Submission to the Joint Standing Committee on Migration

INQUIRY INTO IMMIGRATION DETENTION IN AUSTRALIA

July 2008

This submission was prepared on behalf of the Uniting Church in Australia by UnitingJustice Australia, National Assembly with the assistance of the Justice and International Mission Unit, Synod of Victoria and Tasmania, Uniting Church in Australia

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Introduction

The Uniting Church in Australia welcomes the opportunity to comment on aspects of the Australian immigration detention system.

The Uniting Church in Australia seeks to bear witness to our Christian faith through our program of worship, service and advocacy. In the Christian tradition of providing hospitality to strangers and expressing in word and deed God's compassion and love for all who are uprooted and dispossessed, the Uniting Church in Australia has been providing services to asylum seekers and refugees in the community and in detention for many years. The Uniting Church provides direct services to refugees and asylum seekers through its network of congregations, employees, lay people and community service agencies. Through our ministers, lay and ordained, who provide ministry to the asylum seekers in detention centres and through our work with asylum seekers and refugees settling into the community, we have first-hand knowledge of the consequences of Government policies.

In July 2002, the Uniting Church released its *Policy Paper on Asylum Seekers, Refugees, and Humanitarian Entrants* (see the appendices for this and other related resolutions of the National Assembly and Uniting Church Synods). This paper outlines principles for a just response to the needs of refugees, recognising Australia's responsibilities as a wealthy global citizen and the need to uphold the human rights and inherent dignity of all people. The Church advocates for a just response to the needs of refugees that recognises Australia's responsibilities as a wealthy global citizen, upholds the human rights and safety of all people, is culturally sensitive, and is based on just and humane treatment, including non-discriminatory practices and accountable transparent processes.

In its *Statement to the Nation* at its inauguration in 1977, the Uniting Church pledged

*to hope and work for a nation whose goals are not guided by self interest alone, but by concern for persons everywhere – the family of the One God – the God made known in Jesus of Nazareth (John 10:38) the one who gave his life for others.*¹

The Uniting Church will continue to work for a compassionate, socially responsible society and government that takes seriously its national and international obligations. In this spirit, the Uniting Church offers this submission to the Joint Standing Committee on Migration Inquiry into immigration detention in Australia.

This submission will address the following terms of reference as stipulated by the Joint Standing Committee, *particularly in relation to the detention of asylum seekers*:

- the criteria that should be applied in determining how long a person should be held in immigration detention
- the criteria that should be applied in determining when a person should be released from immigration following health and security checks
- options to expand the transparency and visibility of immigration detention centres
- the preferred infrastructure options for contemporary immigration detention
- options for the provision of detention services and detention health services across the range of current detention facilities, including Immigration Detention Centres (IDCs), Immigration Residential Housing, Immigration Transit Accommodation (ITA) and community detention.

¹ Uniting Church in Australia Inaugural Assembly (1977), *Statement to the Nation*, available: <http://nat.uca.org.au/unitingjustice/resourcearchive/assemblyresolutions/index.html>

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Recommendations

The following recommendations must be read in the light of the Uniting Church's stated commitments to a policy which, among other things:

- seeks an end to the system of arbitrary, indefinite and mandatory detention for asylum seekers;
 - fulfils our obligations under relevant human rights treaties and instruments, especially the Universal Declaration of Human Rights, the Convention and Protocol Relating to the Status of Refugees, the Convention on the Rights of the Child and the Covenant on Civil and Political Rights;
 - does not discriminate in the treatment of asylum seekers on the basis of their movements prior to their application for protection or resettlement being made;
 - provides full access to settlement support and public services for all asylum seekers, refugees and humanitarian entrants;
 - accords asylum seekers full legal rights and protection; and
 - is accountable and transparent.²
1. Asylum seekers should only be held in detention for the very shortest period of time necessary to conduct security, identity and health checks.
 2. After these checks occur, asylum seekers should be released into a community reception system, with full access to Medicare, casework and other support services and the right to work and undertake formal study.
 3. There must be a time limit on an asylum seeker's stay in detention. The Uniting Church recommends this limit be 90 days, except in exceptional circumstances. We also recommend the development of administrative and judicial review mechanisms to investigate instances when this limit is exceeded.
 4. The Minister's non-compellable powers to grant visas and to assign residential determinations should be amended to take into account the Migration Act's statement of intent, "a minor shall only be detained as a measure of last resort". The Minister should be compelled to use these powers to fulfil the intent of the Act. The Act should be amended to the effect that:
 - (i) the Minister must consider the cases of all minor children
 - (ii) the Minister must be compelled to justify to the Parliament a decision not to grant a residence determination or visa to any minor child whose case has not been considered.
 5. As it stands, concentration in the Minister's hands of power to make residential determinations and visa grants to minor children is contrary to the intent of the Act. In order to rectify this, an administrative process and review should replace the discretionary power and all children and their families should be living in the community on bridging visas with entitlements while their cases are determined.
 6. Minimum conditions for detention need to be codified and conform to our international human rights obligations in this area. The Uniting Church suggests

² These policy principles and more are described in the Policy Paper, Asylum Seekers, Refugees and Humanitarian Entrants, Uniting Church in Australia, 22 July 2002 (see Appendix 1)

that these conditions conform to the *UNHCR Guidelines on Applicable Criteria and Standards Relating to the Detention of Asylum Seekers*.

7. Detention facilities must be placed under the care and management of the State.
8. Once in the community, all asylum seekers must have access to the full range of services needed to support themselves and their families. The minimum standards that must be in place for all asylum seekers should include:
 - the right to work;
 - access to healthcare and the Pharmaceutical Benefits Scheme;
 - access to income support;
 - specialised casework support; and
 - the ability to undertake formal study
9. The excision of territories from Australia's migration zone must be repealed.
10. The facility at Christmas Island must not be used as an immigration detention centre.
11. The facilities for administrative detention should be designed in an open rather than prison-like manner to ensure that the buildings and the facilities are:
 - safe for everyone, especially young people, women and elderly people;
 - appropriate for families and people with disabilities;
 - culturally appropriate, especially with regards to kitchen facilities;
 - offer suitable places for worship, prayer and meditation, and private counselling and visitation.

1 | Mandatory and indefinite detention

The Uniting Church finds the current situation for processing asylum seekers entirely unacceptable and has called on the Australian Government over a number of years to continue to investigate and implement alternative methods for detention for those seeking asylum in Australia. The Eighth National Assembly of the Uniting Church in 2000, for instance, resolved to call on the Australian Government to end the long period of detention experienced by some refugees and asylum seekers.³

1. 1 Australia's human rights obligations to asylum seekers

Australia's national and strategic interests are best served by acting as an exemplar in the international human rights system. Australia has an interest in promoting human rights and democracy within the region, and the fairness and integrity of its policies for refugees and asylum seekers are a key part of this goal. The lowering of Australia's refugee and asylum seeker policy standards has the potential to impede the progression of human rights standards globally.

The Uniting Church believes that the mandatory, indefinite detention of asylum seekers in prison-like conditions is in breach of Australia's international human rights commitments and obligations. Article 9 of the International Covenant on Civil and Political Rights (ICCPR), to which Australia is a signatory, states that 'everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention.' Here, the term 'arbitrary' includes not only actions which are unlawful but also those which are unjust or unreasonable. The jurisprudence of the Human Rights Committee has indicated that detention must be a proportionate means to achieve a legitimate aim, having regard to whether there are alternative means available which are less restrictive of rights.⁴ We do not believe that holding asylum seekers in immigration detention for the entire length of time needed to determine the result of their claim is appropriate when there are alternatives available which are far less restrictive of human rights.

A new model of administrative detention needs to be developed and the refugee determination process needs to be reviewed to ensure that the human rights of asylum seekers as guaranteed in international treaties are protected by Australian policy, legislation and programs. The Uniting Church believes Australian Government policy needs to move from mandatory indefinite detention to a practice of detaining only for the minimum amount of time necessary to ensure the detainee is not a threat to the health or safety of the community. We recommend detention in safe environments only for the amount of time necessary to conduct appropriate identity, health and security checks. These checks should be completed as quickly as possible and after completed, asylum seekers should be released from detention and into the community reception arrangements while their protection claim is being assessed.

³ Uniting Church in Australia Assembly Resolution 00.21.03, 2000 (see Appendix 2)

⁴ HREOC (1998) *Those who've come across the seas: Detention of unauthorised arrivals*, p.44, available: http://hreoc.gov.au/pdf/human_rights/asylum_seekers/h5_2_2.pdf, accessed: 10 July 2008

No asylum seeker should be held in detention for any period greater than 90 days, except in the most exceptional of circumstances.⁵ The above is entirely consistent with the practices in other countries (such as Norway - twelve week maximum period of detention; Italy – 20-30 days maximum period of detention⁶, Sweden⁷, and Canada⁸), where detention is used minimally and for the purpose of initial administration processing only. Detention for any prolonged period after this limit should automatically come under judicial and administrative review. Whilst we acknowledge that the Ombudsman plays a role in reviewing long term detention cases, this review mechanism only applies to asylum seekers who have been in detention for two years or longer, a time limit we do not feel is acceptable. Furthermore, current legislation does not make the Minister accountable to the public or to the Parliament for any decision not to follow the Ombudsman's recommendations, making this process ineffective in ensuring the humane treatment of asylum seekers in detention.

1.2 The impact of detention on mental health

Concerns about the impact of prolonged detention on the mental health of asylum seekers have been raised by numerous organisations, ranging from the United Nations High Commissioner on Refugees⁹, to the Australian Human Rights and Equal Opportunity Commission¹⁰, the Commonwealth Ombudsman¹¹ and Amnesty International¹². In addition, several clinical studies have been reported on the detrimental effects of detention on asylum seekers.¹³

The lengthy waiting time for detainees to have their cases heard causes significant mental anguish, adding to their often already fragile mental health. Uniting Church detention centre chaplains (who over the years have served at immigration detention centres including Woomera, Port Hedland and Baxter) and other regular Uniting Church visitors have been consistent in expressing their concerns that prolonged detention is destructive of people's physical and mental health. They watched over years as hope and purpose drained from people's lives as they lived in the punitive, harsh, isolating and often violent environments of these detention centres. While conditions have thankfully significantly improved since the days of Woomera and Port Hedland, the effects on the health of asylum seekers incarcerated for indefinite periods of time in detention remains

⁵ It is acknowledged that there may be extremely rare cases where a person is a threat to the health or safety of the community or is deemed not to be a refugee but would face the death penalty if returned to their country of origin, for example.

⁶ Justice for Asylum Seekers Alliance (JAS) (2002), *Alternative approaches to asylum seekers: reception and transitional processing system*

⁷ Mitchell, G. (2001), *Asylum Seekers in Sweden: An Integrated approach to reception, detention, determination, integration and return*

⁸ Comparisons: Seeking Asylum (online), *Canada – arrival*, available: <http://www.survival-comparisons.org.au/can1.htm>

⁹ ABC Radio (2005), 'UN critical of refugee detention on Nauru', 18 April, transcript available:

<http://www.abc.net.au/worldtoday/content/2005/s1347601.htm>, accessed: 8 July 2008

¹⁰ HREOC (1998) *Those who've come across the seas: Detention of unauthorised arrivals*, available:

http://hreoc.gov.au/pdf/human_rights/asylum_seekers/h5_2_2.pdf, accessed: 8 July 2008

¹¹ Commonwealth Ombudsman (2001), 'Report of an own motion investigation into the Department of Immigration and Multicultural Affairs' immigration detention centres'

¹² Amnesty International Australia (2007), 'Mental health problems amongst asylum seekers', available:

http://action.amnesty.org.au/refugees/comments/mental_health_problems_amongst_asylum_seekers/, accessed: 8 July 2008

¹³ See, for example, Steel, Z. and D. Silove (2001), 'The mental health implications of detaining asylum seekers', *The Medical Journal of Australia*, Vol. 175, pp.596-599; Sultan, A. and K. O'Sullivan (2001), 'Psychological disturbances in asylum seekers held in long term detention: a participant-observer account', *The Medical Journal of Australia*, Vol. 175, pp.593-596; Silove, D., Z. Steel and C. Watters (2000), 'Policies of deterrence and the mental health of asylum seekers in Western countries', *Journal of the American Medical Association*, Vol. 284, pp.604-611

a concern. Most recently a Uniting Church member in Sydney who regularly visits the Villawood Immigration Detention Centre has remarked that:

The lengthy waiting time for detainees to hear about their case causes untold mental anguish. The detainees are often on antidepressant medication, as well as strong sleeping tablets.

As their time in detention continues, asylum seekers also experience loss and grief as fellow detainees are released or forcibly removed. These stresses combine, in an often devastating way, with anxiety about progression of their cases, the wellbeing of family members left behind and the debilitating effects of the trauma that caused them to flee their homelands.¹⁴

Placing detainees who are at risk of self-harm under 24-hour observation will not solve this problem, as they are still under the conditions that caused or exacerbated their mental health illness. Although detainees have been moved from detention centres to Immigration Residential Housing, it is unclear how effective this has been in alleviating their mental health problems. It was our experience, particularly at Port Augusta, that asylum seekers in the housing centre were still experiencing long stays in this form of detention, and they were not free to come and go as they pleased (they were to be accompanied by detention staff when outside the facility). These circumstances lead to feelings of despair and hopelessness in regard to their situations.

Asylum seekers suffering from mental anguish and illness in detention need to be removed from situations of detention all together, in order to receive the proper treatment for their condition. Furthermore, only detaining asylum seekers for the short time necessary to conduct health, security and identity checks, in conditions that are not punitive and prison-like, will minimise the chance of detention adversely affecting the health of asylum seekers in the first instance. For this reason, all asylum seekers should be released into the community as soon as possible.

1.3 The June 2005 Migration Act amendments

Despite the passage of the *Migration Amendment (Detention Arrangements) Bill 2005* in June, the Parliament-envisaged system of mandatory detention remains inequitable and top-heavy. Rather than proscribing transparent and accountable procedures for the award of visas, the amendments chose to give the Minister extraordinary powers of discretion. The amendments further concentrated power in the hands of the Minister, without setting in place stringent and transparent measures of public accountability.

The Uniting Church acknowledges the significance of Section 197AB which, for the first time, took account of the importance of considering individual characteristics and needs within the detainee population, such as age, gender, health. We believe that these changes to the Migration Act stand as a clear basis for further policy change in various areas of the Department's operation to better take account of people's individual needs and situations.

¹⁴ Sultan, A. and K. O'Sullivan (2001), 'Psychological disturbances in asylum seekers held in long term detention: a participant-observer account', *The Medical Journal of Australia*, Vol. 175, pp.593-596

However, we are concerned by the operation of the two non-compellable powers granted to the Minister by the 2005 amendments. These powers include the ability to grant any kind of visa to any person “if she thinks it is in the public interest to do so”, and to grant specific persons a community-based detention determination on an individual basis, again taking into account “the public interest”. These decisions must then be tabled to Parliament, presumably to hold the Minister accountable to the public for decisions which bring new people into the community. However, the issue of public accountability and “the public interest” does not appear to encompass the Minister’s justifying why he or she has chosen not to grant a visa to a particular individual.

Additionally, the notion that the Minister might make a decision based on what she or he “thinks” is in the public interest, and needs only to justify these thoughts in the event that they lead to certain outcomes, is unacceptable. Considering the imperative inscribed in the legislation, and the widespread reliance on ministerial powers of intervention we believe it is essential to hold the Minister accountable for the decisions made in relation to granting visas. This would necessarily include a review process making accountable:

- the Minister’s interpretation of “the public interest”,
- the process leading to a decision not to grant a visa in a particular case; and
- the Minister’s reasons for not reviewing a particular case at all, especially as regards the case of a minor.

We note that, as previously discussed, the exception to this is in the case of asylum seekers who have been in detention for over two years’ duration, whose cases are reviewed by the Ombudsman and his recommendations tabled in Parliament. In these cases, and these cases alone, the Ombudsman has been empowered to recommend courses of action to the Minister, which, in line with the non-compellable nature of the Minister’s discretionary powers, she or he is under no formal obligation to undertake. The Ombudsman has the power to determine what constitutes fair and reasonable practice in the case of these long-term detainees. Presumably in these cases public scrutiny will be brought to bear upon the Minister’s conception of “the public interest”, should he or she choose to act other than according to the recommendations. However, the legislation provides no explicit requirement for the Minister to be accountable to either the public or to the Parliament for any decision not to follow the Ombudsman’s recommendations.

1.4 Minor children in detention

While the concept of mandatory detention was upheld by the 2005 changes to the Act, the *form* of detention came under considerable scrutiny. The Act’s statement of intent specifically noted that minor children “shall only be detained as a measure of last resort”, with the proviso that such a statement is not intended to reflect on the new practice of community detention. While Subsection 5(1) of the Act makes it clear that an asylum seeker in receipt of a Ministerial residence determination is still covered by the umbrella of “immigration detention”, the statement of intent seeks to differentiate community residence detention from the incarceration model currently in place.

On close examination the statement of intent regarding children is devious. While much was made of the intent for a more humane form of immigration detention proffered by the changed legislation, little attention has been drawn to the fact that the statement of

intent is in practice contradicted by the obligations imposed by the Act both on individual immigration officers and on the Minister.

While the statement of intent refers to a “last resort” scenario for the detention of minor children, Section 189 of the Act maintains the mandatory detention principle as the fundamental cornerstone of the system. The Act compels immigration officials to detain all people reasonably suspected of being unlawful non-citizens, including those asylum seekers who have landed in territories excised from the migration zone. Those people detained outside of the migration zone cannot make a valid visa application, although the Minister may grant a visa if they determine it to be in the public interest to do so.¹⁵ While the 2005 changes to the Act have broadened the scope and form of detention to include community determinations, these determinations may only be granted by the Minister. Indeed the Act states quite specifically that the discretionary Ministerial power may not be delegated – Section 197AF states that “The power to make, vary or revoke a residence determination may only be exercised by the Minister personally”. As such, an immigration officer who reasonably suspects that any minor child is an unlawful non-citizen has an obligation to take that minor child into a custodial form of immigration detention. Detention of minor children is thus of necessity a first resort and a front line strategy, and not “a measure of last resort”.

The Minister’s powers of discretion are designed to both concentrate power for visa decisions and confine their scope. As it stands, the legislation’s clear statement of intent, “that Parliament affirms as a principle that a minor shall only be detained as a measure of last resort”, has no power to compel the Minister to grant a minor child either a visa or a community-based detention. In addition, should the Minister choose to reject a minor child’s application for a visa, the Act does not require the decision to be subject to parliamentary scrutiny. Indeed, the Minister is not compelled even to consider a minor child’s case, or to justify to Parliament why they chose not to consider such a case.

However a matter for real concern is that despite these absolute and non-compellable powers, the Minister is not empowered to carry out the intent of the Act by releasing all minor children as a group of asylum seekers from custodial detention. The Minister’s extraordinary power is limited precisely by the fact that it may not be delegated in any aspect of the decision, or make a general residence determination for minors. Subsection 197AB(2) of the Act states:

A residence determination must:

- (a) specify the person or persons covered by the determination by name, not by description of a class of persons

The Minister must individually and personally determine all cases, and the Department is not empowered to provide a community detention option for any cases that the Minister has not reviewed, regardless of the broad intent of the Act. Equally, there is no apparent measure in place to hold the Minister accountable for his decision not to grant a community detention place to a minor child.

Residential determinations are publicly posed as being an alternative to “real” detention, designed to fulfil the Act’s promise of bringing children out of the damaging environment

¹⁵ Coombs, M. (2004), ‘Excisions from the Migration Zone – Policy and Practice’, Parliamentary Library Research Note No. 42, March, Dept of Parliamentary Services

of detention centres and into a community and family atmosphere. While we would welcome a more humane method of administering the detention of asylum seekers, the Uniting Church has significant concerns that the current form of the Act leaves it powerless to fulfil its stated intent. This situation should be remedied immediately.

1.5 Minimum guidelines for detention of asylum seekers

The Uniting Church strongly recommends that minimum conditions for detention be codified, and that these standards be based on the *UNHCR Revised Guidelines on Applicable Criteria and Standards Relating to the Detention of Asylum Seekers*.¹⁶ Whilst we appreciate that many improvements have taken place in recent years in terms of the operation of detention centres, these conditions will establish clearer standards than those currently stipulated in the Department's Core Operational Principles for detention and ensure Australia's practices conform to international human rights standards in this area.¹⁷

The guidelines state that the detention of asylum seekers is "inherently undesirable" and "should only be resorted to in cases of necessity." It should only occur in four instances:

1. To verify identity, in cases where identity may be undetermined or in dispute.
2. For preliminary interviews and identifying the basis of an asylum claim. It should not be used while determination of that claim is occurring.
3. When it has been established that an asylum seeker has had an intention to mislead or refuses to cooperate.
4. To protect national security and public order

Special consideration should be given to any applicant who is deemed to be at high risk of adverse impacts from detention, which may include pregnant women, survivors of torture and trauma, and minors. For these applicants detention should be a last resort and for the minimum amount of time.

Any decision to detain an asylum seeker should be reviewable, either judicially or administratively, and must be exercised in a non-discriminatory manner. Where there are viable alternatives to detention, these must be employed first.

Detention should not be used as a punitive measure for illegal entry or presence in a country. Here, Australia's policy is in breach of the UNHCR guidelines, in that it punishes those who have entered the country without a valid visa compared to those who arrive with a valid visa. The guidelines also point out that the position of asylum seekers "differs fundamentally" from that of other immigrants, in that they may not be able to comply with the normal entry laws. They also state that this, as well as the often traumatic experiences that have caused asylum seekers to flee their homelands, should be taken into account when determining the need and suitability of detention.

Guideline 10 states that conditions of detention must be "humane with respect shown for the inherent dignity of the person." These conditions must include, for instance, the initial screening of asylum seekers to identify victims of trauma or torture, information on and access to legal counsel, access to a complaints mechanism, the opportunity to continue

¹⁶ Accessed at: <http://www.unhcr.org.au/pdfs/detentionguidelines.pdf>

¹⁷ Accessed at: <http://www.immi.gov.au/managing-australias-borders/detention/about/core-principles.htm>

education or vocational training and the opportunity to make regular contact with friends, relatives and religious, social and legal counsel and to conduct such visits in privacy.

2 | Options for community-based alternatives to immigration detention

The Uniting Church's position on the treatment of asylum seekers in the community is based in the first-hand experience of agencies such as Hotham Mission's Asylum Seeker Project in Victoria. Hotham Mission runs a range of comprehensive services for asylum seekers, including support accommodation, casework, financial relief, volunteer and support programs. Since late 2000, the Asylum Seeker Project has provided housing and casework to 74 asylum seekers released or transferred from an Immigration Detention Facility, working closely with the Minister's Office and the Department. More recently, the Asylum Seeker Project has been involved in a number of Palmer initiatives, including the Community Care Pilot.

The Uniting Church contributes millions of dollars of financial and in-kind support to asylum seekers living in the community and is committed to community release as an alternative to detention.

2.1 Services for asylum seekers in the community

The Uniting Church and its agencies continue to advocate for an end to the bridging visa regime which denies basic rights and support services to some asylum seekers in community. Asylum seekers on Bridging Visa E are often unable to support their basic living requirements, except through the goodwill of charitable and benevolent organisations, including the Uniting Church and its agencies. We strongly believe that the forced destitution of these asylum seekers is totally unacceptable and while we are pleased that this issue is currently under review we urge the Australian Government to do what it can to expedite the removal of the 45-day rule and the Bridging Visa E class.

The denial of basic healthcare, shelter and the ability to work is a breach of Australia's obligations under international human rights treaties including the United Nations *International Covenant on Economic, Social and Cultural Rights* (ICESCR), the *Convention on the Rights of the Child* (CROC) and the *Refugee Convention*. The ICESCR establishes the rights of all to appropriate and suitable healthcare, housing, and income support (and does not exclude asylum seekers from this) and the CROC ensures that all children have the right to survival; to develop to the fullest; and to participate fully in family, cultural and social life. The *Refugee Convention* ensures that all refugees lawfully staying in Australia must not have less favourable access to basic human services than Australian citizens. The operation of some visas granted to asylum seekers (including the Bridging Visa E) flouts these human rights principles.

The current system is counterproductive to the effective settlement of asylum seekers who are later granted permission to stay in Australia. The existing process has a range of negative impacts on the overall wellbeing of asylum seekers, including prolonging welfare dependency (as asylum seekers are unable to establish themselves in employment in the absence of work rights), high levels of untreated mental and physical health issues and stresses on families leading to breakdown and domestic violence, all of which are typical responses to long-term poverty and social exclusion.

The research and experience of the Asylum Seeker Project, working with asylum seekers living in the community without any rights or entitlements, has shown that living in the community with a bridging visa with entitlements to health care, casework, income support and the right to work promotes stability and wellbeing, better health outcomes and a greater feeling of dignity and sense of worth.¹⁸

Once in the community, all asylum seekers must have access to the full range of services needed to support themselves and their families. The minimum standards that must be in place for all asylum seekers should include:

- the right to work
- access to healthcare and the Pharmaceutical Benefits Scheme
- access to income support
- specialised casework support
- the ability to undertake formal study.

Many asylum seekers living in the community without work rights are professionally qualified or highly skilled, and therefore have the capacity to support themselves in the community if provided the opportunity to do so. Research conducted by Hotham Mission and the Network of Asylum Seeker Agencies Victoria in 2006 showed that 74 percent of the 211 surveyed had skills recognised on the Skilled Occupation List for the General Skills Migration Program. Occupations included engineers, teachers, computer programmers and social workers. Of those on the Skilled Occupation List, 45 percent had skills that were considered in high demand, including accountants, electricians and nurses.

The research showed that the cohort of 211 asylum seekers who undertook the skills audit would have potentially added up to \$26 million to the nation's GDP over a 3 year period. In addition, it has been estimated that up to 1500 work age asylum seekers are currently prohibited from gaining employment. Assuming that the cohort surveyed by the ASC is representative of the majority of these 1500 asylum seekers, over a three year period this group of people could potentially add \$188 million to the Australian economy.¹⁹

The Asylum Seekers Centre in Sydney has also confidently asserted that all of their work-ineligible clients who are fit to work strongly want the opportunity to work and become self-reliant. Their inability to do so leads to a perception that they are a drain on the community and the compassion and resources of their supporters.²⁰ Most asylum seekers who are ineligible to seek paid employment are also not allowed to participate in voluntary work. This complete inability to engage in employment, when coupled with an ineligibility to undertake formal study, leads to an enforced passivity, and increases the vulnerability of asylum seekers to depression or other mental illness.²¹

¹⁸ Asylum Seeker Project Hotham Mission (2006), 'The need for a uniform community-based reception policy for asylum seekers in Australia'; Asylum Seeker Project Hotham Mission (2005), 'Recommendations on family-based Community Detention arrangements'

¹⁹ Croucher, G. (2007), 'A Chance to Contribute: Some remarks on the potential economy impact of allowing asylum seekers to the right to work', *Just Policy: A Journal of Australian Social Policy*, Vol. 44, No. 2

²⁰ Asylum Seekers Centre (2006), *Submission to the Department of Immigration and Multicultural Affairs Review of Bridging Visas*, available:

http://asylumseekerscentre.org.au/images/stories/resources/submissions/submisson_dima_bridging_visa_review.pdf, accessed: 30 June 2008, p.5

²¹ *Ibid.*, p.5

Granting work rights, access to Medicare and income support and the ability to undertake formal study would give asylum seekers the best possible chance to live securely and safely in the community. It will also acknowledge the duty of care the government has to asylum seekers released from detention²², reduce the strain on already-overstretched community organisations and ensure that Australia meets its international obligations to support the fundamental human rights of all asylum seekers. We note that there already exists a well-established federally-funded income support system for some asylum seekers in the community, the Asylum Seeker Assistance Scheme (ASAS), administered by the Red Cross. However, this program does not cover all asylum seekers in the community and we would recommend the extension of the Community Care Pilot as the most effective way of supporting asylum seekers in such situations.

2.2 The risk of absconding

We note that one of the concerns voiced by the previous Australian Government was that asylum seekers placed in the community during the determination of their claim would abscond. The Uniting Church finds no reason that this would be the case, if asylum seekers are provided with the appropriate support services during their time in the community.

A UNHCR study²³ into alternatives to detention in the international context found several common factors which influenced the effectiveness or otherwise of a particular alternative detention measure, in terms of preventing absconding or improving compliance with asylum procedures. These included:

- providing competent and effective legal advice;
- ensuring asylum seekers are not only informed of their rights and obligations but also that they understand them;
- providing adequate material support and accommodation throughout the application and determination process; and
- using community groups, or family or community ties to create support networks in the community.

This study also found that material support and accommodation during the asylum procedure was critical in ensuring compliance with regulations, and found that there were high rates of non-appearance in countries where a large segment of asylum seekers were excluded from State assistance (such as Italy and Austria). One effect of being permitted to adequately support themselves through work was that asylum seekers are more able to maintain a fixed address, which in turn makes communication with authorities easier and more reliable.

In the Australian context, the experience of Hotham Mission's Asylum Seeker Project shows that effective casework support and assistance in preparing for return in the event of an unsuccessful refugee application minimises the risk of absconding. ASP has

²² Asylum Seeker Project Hotham Mission (2005), 'Recommendations on family-based Community Detention arrangements'

²³ Field, O. for UNHCR (2006), *Alternatives to Detention of Asylum Seekers and Refugees*, Legal and Protection Policy Research Series, p.45

extensive experience in working with refused asylum seekers facing removal from Australia and agrees with the Government's clear objective that refused asylum seekers not requiring refugee protection or humanitarian intervention must depart Australia. ASP has worked with more than 150 refused asylum seekers, and has found that consistent case coordination, assessment-based decision making, intervention planning and active casework to support, prepare and empower the client throughout the process has been of great significance. Over the past five years, 84 percent of refused asylum seekers ASP has worked with have voluntarily repatriated. Less than 12 percent have been detained pending removal, with only three incidents of absconding.

3 | Transparency and visibility in detention centre operations

The Uniting Church maintains that the immigration system must be transparent and accountable. As such, we urge that detention centres be taken out of the hands of private contractors, and placed under the care and management of the state. This is of primary concern in ensuring the wellbeing of asylum seekers and in connecting the lines of responsibility for conditions in detention centres back to the Government.

3.1 Excision and the Christmas Island Immigration Detention Centre

While the Uniting Church is grateful for the dismantling of most of the so-called 'Pacific Solution', we remain concerned about the facility on Christmas Island and the continued excision of territories from Australia's migration zone.

The Uniting Church believes that the excision of territories from our migration zone remains a symbol of a country that was unwilling to fulfil its obligations under the Refugee Convention and in denial about the right of people to seek asylum. We urge the Government to reverse the legislation relating to the excision.

We are also concerned that the maintenance of the Christmas Island detention facility is an unacceptable alternative to mainland detention. The ongoing and exorbitant cost of maintaining this facility empty but in a state of readiness is, we believe, impossible to justify. We are also concerned that detaining asylum seekers at all on Christmas Island is entirely inappropriate.

Uniting Church staff have in the past observed the detention process on Christmas Island first-hand, and this experience informs our opposition to the Christmas Island facility. Uniting Church staff were disturbed by the isolation of the facility, and consequently the prohibitive cost for NGOs in gaining access to the centre. Airfares were extremely expensive, costing many thousands of dollars. It is therefore our concern that church and NGO staff, who provide a wide array of legal and advocacy services as well as casework and support to asylum seekers on the mainland, would be hindered in carrying out these functions should asylum seekers be placed in the detention facilities on Christmas Island. In addition, the important and proven role that such organisations play in ensuring transparency and accountability within detention environments would be lost.

In addition, the isolation of the Christmas Island detention centre makes enabling access for asylum seekers to sufficient medical and psychological care expensive, time-consuming and traumatic for asylum seekers and their families. Providing asylum

seekers the treatment necessary for their often complex medical needs would require flights to the mainland, which separates already extremely vulnerable families and is extremely costly. Establishing and providing these services on Christmas Island would also be incredibly expensive.

Finally, the potential burden on the local community of Christmas Island is unacceptable. In 2007, Oxfam reported on the stresses that providing humanitarian support for detainees was having on the Christmas Island community. The small population of 1200, whilst being 'by and large relatively receptive to the issues of the refugees' plight', has a limited capacity to support detainees and individuals from the community who volunteered to teach English, and provide care and assistance to detainees recounted feeling isolated and cut off from the wider support networks available on the mainland (such as NGOs, legal assistance, and refugee service organisations).²⁴

4 | Infrastructure options

The Uniting Church believes that the facilities for administrative detention arrangements should be open rather than prison-like: safe for everyone, especially young people, women and elderly people; appropriate for families and people with disabilities; culturally appropriate, especially with regards to kitchen facilities; and offer suitable places for worship, prayer and meditation, and private counselling and visitation.

The Uniting Church worked with other religious organisations, the Department of Immigration (then DIMIA) and representatives of the current detention service provider GSL throughout 2005-2006 to develop the *Religious Visitors' Protocol: A guide for religious and spiritual representatives visiting immigration detention facilities*. Concerns about appropriate spaces for worship, prayer and meditation and counselling were a high priority in the discussions through the workshop sessions. Section 3 of the Protocol directly refers to the need for facilities to include such appropriate spaces:

3.1 Wherever possible, each IDF will designate space for:

- communal worship
- prayer and meditation; and
- private rooms for individual spiritual counselling.

3.2 No one space will be set aside for a specific religion, but appropriate arrangements will be made for times of special significance or extended worship, such as Ramadan, Easter and Diwali. The spaces will be interfaith friendly with no permanent religious symbols to any particular faith.²⁵

²⁴ Bem, K, N. Field, N. Maclellan, S. Meyer and T. Morris (2007), *A price too high: the cost of Australia's approach to asylum seekers*, available: <http://www.oxfam.org.au/media/files/APriceTooHigh.pdf>, accessed: 1 June 2008

²⁵ *Religious Visitors' Protocol: A guide for religious and spiritual representatives visiting immigration detention facilities*, Department of Immigration and Multicultural Affairs, July 2006, pp. 11-12

5 | Conclusion

The Uniting Church finds the current system of indefinite mandatory detention for asylum seekers unacceptable. We strongly recommend that asylum seekers only be held in detention for the very shortest period of time necessary to conduct security, identity and health checks. After these checks occur, asylum seekers should be released into a community reception system, with full access to Medicare and other support services and the right to work and undertake formal study. A time limit must be placed on an asylum seeker's stay in detention, and the Uniting Church recommends this limit be 90 days, except in the most exceptional of circumstances. Administrative and judicial review mechanisms need to be developed to investigate instances when this limit is exceeded. The Church also recommends that minimum conditions for detention that conform to Australia's international human rights obligations in this area be codified. The Uniting Church suggests that the UNHCR Guidelines on the detention of asylum seekers be used as a basis for these conditions. We also recommend repealing the excision of territories from our migration zone and that the facility on Christmas Island not ever be used for the detention of asylum seekers.

Asylum Seeker and Refugee Policy

Assembly Standing Committee, Uniting Church in Australia
July 2002

Adopted in resolution 02.47.01

- (i) The human rights of all people must be upheld at all times.

All people should be treated with respect and accorded the dignity they deserve as human beings.

We must uphold the rights recognised under the *Universal Declaration of Human Rights*.

All people have a right for their cultural background to be respected.

We must uphold the rights recognised under, and fulfil our obligations under, all UN treaties that Australia has ratified, including the *Convention on the Rights of the Child* and the *Covenant on Civil and Political Rights*.

The rights of asylum seekers and refugees must be upheld at all times.

We must fulfil Australia's obligations under the Convention and Protocol Relating to the Status of Refugees.

We must strive to meet recommendations made by the United Nations High Commissioner for Refugees (UNHCR) in recognition of its mandate to lead and coordinate international action for the world-wide protection of refugees and the resolution of refugee problems.

- (ii) The Australian response toward asylum seekers and refugees should be culturally sensitive and should take into account the situations from which people have come.
- (iii) Australia's policies and legislation should reflect a commitment to the rights and safety of asylum seekers and refugees and should clearly distinguish these from issues of border protection and security, and from attempts to deal with people smuggling.
- (iv) There should be no discrimination in the treatment of asylum seekers, refugees and humanitarian entrants.

Policies, including access to visas and the formulation of visa subclasses and access to public services, social services, and settlement support, should not discriminate against people on the basis of their movements prior to their application for protection or resettlement being made.

There should be no discrimination, within Australia's offshore resettlement program, on the basis of an entrants movement to a third country or attempted entry into Australia.

There should be no discrimination, within Australia's onshore protection program, on the basis of movement to a third country or entry into Australia.

All people accepted under Australia's onshore protection program or offshore resettlement program should have full access to settlement support, public services, and social security.

- (v) We must use appropriate and sensitive language when we describe and discuss refugees and asylum seekers.

Government policies and statements must not use language that encourages fear and hatred towards refugees and asylum seekers.

- (vi) We must help those who come to Australia seeking asylum.

On arrival, asylum seekers should have access to the protections afforded to them in international law.

On arrival, asylum seekers should be able to notify the Red Cross and United Nations High Commission for Refugees that they have arrived.

Australia must provide adequate psychological, social, and medical care for all asylum seekers.

All asylum seekers should have access to sufficient and culturally sensitive translation services from the time that they arrive in Australia.

All asylum seekers should have access to government assistance to meet their basic needs from the time that they arrive in Australia.

All asylum seekers should have access to health care including trauma and torture services, Medicare and public health services from the time that they arrive in Australia.

- (vii) Asylum Seekers must have full legal rights and protection.

Once a person has told the Government that they are seeking asylum they should cease to be considered to be an illegal entrant by the Australian Government.

Refugee claimants should only be detained for short pre-determined periods of time for the sole purpose of conducting health, identity, and security checks.

An independent authority should monitor the conditions under which asylum seekers are held by the government and ensure that they are being treated justly and humanely.

Upon completion of health, identity and security checks, all asylum seekers should be issued a bridging visa valid until they are either granted a Protection Visa or, if their claim is unsuccessful, are returned.

All asylum seekers should have access to legal advice and assistance to prepare their claims.

All asylum seekers should have full rights of administrative and judicial appeal.

- (viii) We must help those who come to Australia for resettlement.

On arrival, refugees should be able to notify the Red Cross and United Nations High Commission for Refugees that they have arrived.

Australia must provide adequate psychological, social, and medical care for all refugees and humanitarian entrants.

All refugees and humanitarian entrants should have access to sufficient and culturally sensitive translation services.

All refugees and humanitarian entrants should have access to government assistance to meet their basic needs.

- (ix) Australia's policies and legislation should refer particularly to the rights and needs of child asylum seekers and refugees.

All decisions about child asylum seekers and refugees should be made with the best interests of the child as the primary consideration.

Trained independent guardians who can advocate and care for unaccompanied minors should be appointed to care for a child as soon as he or she is identified as an unaccompanied minor.

The specific rights of child asylum seekers, including the right to education, should be upheld.

- (x) Australia must take a truly global approach to refugees, asylum seekers, and displaced persons.

We must recognise our responsibilities, including our obligation to develop compassionate policies regarding the global movement of all displaced persons.

Our approach should embody the spirit of international burden sharing, in the knowledge of our nation's relative wealth and good fortune. We should not continue to place the burden of processing refugee claims onto poor and developing countries.

Australia must demonstrate its commitment to the responsibility to protect vulnerable individuals through the formulation of generous intake numbers.

Australia must maintain its commitment to offering resettlement places for refugees referred to us by UNCHR.

Australia must maintain its commitment to our onshore protection program for asylum seekers who travel to Australia.

The migration zone for the purposes of entry into Australia and access to visa application and review processes should be consistent with the definition of the migration zone under the *Migration Act 1958*.

- (xi) The immigration system should be accountable and transparent.

There should be respect for applicants' rights and dignity.

Accountability and transparency within government process in the processing of refugees and asylum seekers must be ensured.

The desire to build a trading relationship with a country should not be a factor taken into account when determinations are made on the refugee status of citizens of that nation.

- (xii) People whose refugee claims have been rejected and who are waiting to be returned should be treated justly and humanely.

People whose refugee claims have been rejected should have access to adequate psychological, social, and medical care (including trauma and torture services, Medicare and public health services), sufficient and culturally sensitive translation services, and government assistance to meet their basic needs.

**Welcome the Stranger
in the spirit of the Year of Jubilee**

Ninth Assembly, Uniting Church in Australia
July 2000

The Assembly resolved:

00.21.03

- (1) to note the important call of the gospel to welcome the stranger;
- (2) to commend and celebrate the work of those within the Uniting Church and wider community who work with refugees and asylum seekers as they commence resettlement within Australia;
- (3) to celebrate the work which has been undertaken by the NCCA National Program for Refugees and Displaced Persons over many years and for the creation in late 1998 of an ecumenical committee to support this work;
- (4) to commit the Uniting Church in Australia to ongoing support for refugee and asylum seeker resettlement in Australia;
- (5) to commit the Uniting Church in Australia to:
 - (i) promoting cultural sensitivity particularly in the language that it uses to describe those who are refugees, access to interpreters from the same cultural background and access to appropriate faith communities; and
 - (ii) awareness of racism and discrimination used to instil fear against refugees and asylum seekers;
- (6) to affirm the need for fair, humanitarian, adequately resourced and culturally appropriate government policies and procedures for the processing of refugees and asylum seekers both within Australia and overseas;
- (7) to call on the Australian government to amend its policies and practices by ensuring:
 - (i) accountability and transparency within government process in processing of refugees and asylum seekers;
 - (ii) that discrimination does not occur in the treatment of refugees and asylum seekers, and that their dignity is respected;
 - (iii) cultural sensitivity towards asylum seekers and the situations from which they come;
 - (iv) that the language used by Government does not encourage fear and hatred towards refugees and asylum seekers;
 - (v) the current limits on intake of refugees and asylum seekers within Australia are reviewed and that Government demonstrate its international responsibility to the protection of vulnerable individuals;
 - (vi) an end to the long period of detention experienced by some refugees and asylum seekers;

- (vii) continued investigation and implementation of alternative methods to detention for those seeking asylum onshore in Australia;
 - (viii) all refugees and asylum seekers have equal access to facilities, benefits, assistance, information, community networks and legal advice immediately upon arrival within Australia;
 - (ix) immediate notification to the Red Cross and United Nations of any refugees or asylum seekers arrival in Australia;
 - (x) sufficient and culturally sensitive translation services are available in all refugee centres;
 - (xi) sufficient access to medical, legal or community services for those residing in detention centres, including trauma and torture services;
- (8) to encourage the Australian government to separate its trade policy from its response to refugees and asylum seekers;
- (9) to encourage members, agencies, Congregations and councils of the Uniting Church to welcome recently arrived refugees into their communities and to provide support and advocacy as they are able;
- (10) to express its concern to the Australian government at the current practice of releasing refugees into urban and rural areas with inappropriate supports and resources, and with unsatisfactory notification of services within the placement area.

Refugee Warehousing

Assembly Standing Committee, Uniting Church in Australia
July 2005

- 05.48 *It was resolved to:*
- 05.48.02 a) note that the *1951 Refugee Convention* and the *1967 Protocol Relating to the Status of Refugees* state that people fleeing persecution across international borders are entitled to certain protections. These include freedom from forcible return (*refoulement*), and basic employment, property and freedom of movement rights. These documents form the basis for the work of the United Nations High Commissioner for Refugees, and
- b) that seven million refugees are currently *warehoused*, confined and segregated in camps or settlements for periods of a decade or more, and divested of their basic rights. Sometimes warehousing situations have been in place for generations.
- 05.48.03 a) oppose the practice of *warehousing* refugees as an infraction of international refugee rights and a waste of human potential;
- b) endorse the international campaign to end the warehousing of refugees;
- c) support that the NCCA in its advocacy for an end to the practice of *Refugee Warehousing*;
- d) encourage members, congregations, groups and agencies of the Uniting Church to educate and advocate against the practice of refugee warehousing.

Appendix 3 |
Asylum Seeker and Refugee resolutions from Uniting Church Synods

1. Synod of Victoria and Tasmania

1992 Re: Refugees, Asylum Seekers, Ethnic Affairs

92.5.1.2 *The Synod resolved:*

- (a) To commit itself to attaining adequate personal and financial support for persons seeking asylum in Australia on grounds of refugee or humanitarian status, because of the scriptural injunctions to provide hospitality to the sojourner and the alien in our midst.
- (b) To make representation to the Australian Government on behalf of asylum seekers, requesting the following urgent action:
 - (i) the provision of an acceptable, minimum level of financial support (such as Special Benefits) for all people from time of application;
 - (ii) an expediting of applications;
 - (iii) the provision of health benefits, Medicare and work permits for applicants;
 - (iv) the provision of adequate counselling.
- (c) To express this Synod's conviction that in this matter the Australian Government acts on behalf of the Australian community, rejecting the Government's intention to shift the burden of support of asylum seekers onto welfare agencies.

1996 Re: Refugees, Asylum Seekers

96/25.7 *Synod Standing Committee resolved:*

- (a) to request the Federal Government to continue the Asylum Seekers Assistance Scheme (ASAS) at its current rate for onshore refugee applicants;
- (b) to call upon Uniting Church congregations and members:
 - (i) to offer substantial protection and assistance to asylum seekers;
 - (ii) to convey their concerns about changes to the ASAS to their local federal members of parliament; and
 - (iii) to study "A Moment to choose: Risking Solidarity to be with Uprooted people" produced by the WCC 'Ecumenical year for churches in solidarity with the uprooted', 1997;
- (c) to request the Federal Government to grant permanent residence on humanitarian grounds for asylum seekers from East Timor and not deport such people to Portugal against their will.

2001 Re: Australia's treatment of refugees seeking asylum in Australia

01.6.7.6 *The Synod resolved:*

To express its grave concern and disappointment at the government's hostile and inhumane treatment of refugees and call upon the Federal Government to:

- (i) Abandon its policy of mandatory detention of asylum seekers, and to seek to develop a community-based policy which preserves the interests of the nation as well as the dignity and psychological health of refugees.
- (ii) Stop using refugees in the pursuit of political ends
- (iii) Allow the Senate, as a house of review, to conduct an effective review of the proposed changes to the Migration Act.
- (iv) Acknowledge the importance of judicial review of executive decision in our Westminster system of Government, and to reverse the current policy of limiting and in some cases excluding judicial review of determinations of refugee status.
- (v) Work towards establishing more off-shore refugee determination centres in the places where refugee populations are greatest.
- (vi) Engage constructively with the situations in countries that create refugees, by increasing foreign aid, initiating peace-building activities and enhancing diplomatic representation.
- (vii) De-link Australia's off-shore and on-shore refugee quotas.
- (viii) Accurately inform the Australian public on all matters relating to refugees by embarking upon a public education campaign that counteracts racism and promotes public sympathy for some of the most vulnerable people in the world.

2002 Re: Treatment of asylum-seeking women and children currently being held in Australian Government detention centres

02.6.9.4 *The Synod resolved:*

Pursuant to the Assembly 2000 resolution 00.21.03 (g)(ii), *Welcome the Stranger*, by which all Synods are bound:

- (a) To express its grave concern to the Prime Minister and Australian Government at the discriminatory and degrading treatment of women and children currently held in detention centres, such as the examples revealed by Julian Burnside QC in his recent Deakin University Law School Oration (see Opinion 15 *The Age* September 27th, 2002); and
- (b) To ask the Government to urgently review and correct all practices which degrade and adversely affect the well-being, either mental or physical, of women and children in the detention centres.

2004 Re: Refugees and Asylum Seekers

04.4.4.2 The Synod resolved:

- (a) To call on the Federal Government to:
- 1) Grant permanent protection to all asylum seekers successful in their application for protection in Australia.
 - 2) Assess protection applications against humanitarian protection criteria arising from United Nations (UN) human rights treaties which Australia has signed, in addition to Refugee Convention criteria.
 - 3) Grant Complementary Protection to claimants successful in an application under humanitarian protection criteria arising from UN human rights treaties Australia has signed.
 - 4) Return failed protection claimants to their country of origin only if it is safe to do so and only where the claimant does not meet Refugee Convention criteria or Complementary Protection criteria.
 - 5) Take into account the following factors in assessing whether a country is safe for a person to be returned to:
 - Independent reports by human rights agencies and other non-government organisations (NGO's);
 - The assessment of the United Nations High Commissioner for Refugees; and Reports of other Governments.
 - 6) Not use intimidation or forced chemical sedation and to avoid unnecessary use of restraints in the process of removing a failed protection claimant from Australia.
 - 7) Consult and notify both the person being removed and relevant bodies/individuals including government and non-government bodies in Australia and the country of origin of the person before the return.
 - 8) Close offshore processing centres such as Nauru, Papua New Guinea's Manus Island and Christmas Island.
 - 9) Repeal legislation relating to the excision of Australian territory from the Migration Zone.
 - 10) Share responsibility for the global movement of displaced people rather than shift responsibility to poorer nations.
 - 11) Abandon the use of detention as a deterrent.
- (b) To write to the Prime Minister, the Minister for Immigration, Multicultural and Indigenous Affairs, the Leader of the Opposition and the Shadow Minister for Immigration to inform them of this resolution.

2. Presbytery and Synod of Western Australia

Synod 2000

Social Justice Commission:
53/2000 It was agreed that the Synod:

1. note the important call of the gospel to welcome the stranger;
2. commit itself to ongoing support for refugee and asylum seeker resettlement in Western Australia;
3. commit itself to:
 - a. promote cultural sensitivity, particularly in the use of language;

- b. raise awareness of racism and discrimination used to instil fear and resentment towards refugees and asylum seekers;
 - c. along with the Coalition Assisting Refugees After Detention (CARAD) and the Conference of Churches, help to provide community programs and support for refugees and asylum seekers;
- 4. commend and celebrate the work of those within the Uniting Church and wider community who work with refugees and asylum seekers commencing resettlement within Australia;
- 5. affirm the need for fair, humanitarian, adequately resourced and culturally appropriate government policies and procedures for the processing of refugees and asylum seekers both within Australia and offshore locations;
- 6. affirm the need for clear discernment between refugees and asylum seekers and those who might be classified as illegal immigrants already living within Australia;
- 7. commend the Australian government for its commitment to humanitarian programs, particularly in relation to provision of overseas aid and its acceptance of some categories of refugees;
- 8. express its concern to the Australian government for:
 - a. the treatment of those seeking asylum within Australia, particularly for the incarceration and extended isolation of asylum seekers in their arrival within Australia;
 - b. the long period of detention experienced by some refugees and asylum seekers;
 - c. the lack of accountability and transparency within government procedures in the processing of refugees and asylum seekers;
 - d. inadequacies within current detention centres where residents do not have sufficient access to medical, legal or community services;
 - e. the lack of access to detention centred by community groups and community services;
 - f. cultural insensitivity towards asylum seekers and the situations from which they come;
 - g. inadequate provision of torture and trauma counselling services within Australia;
 - h. the use of language which encourages fear and hatred towards asylum seekers and refugees;
 - i. discrimination which takes place in the treatment of refugees;
 - j. the current intake limits of refugees and asylum seekers within Australia;
- 9. call on the Australian government to amend its policies and practices by ensuring:
 - a. the move from the use of detention centres, to community placements for asylum seekers within four weeks of arrival;
 - b. the dignity of refugees and asylum seekers is respected;
 - c. refugees and asylum seekers have access to information, community networks and legal advice immediately upon arrival within Australia;
 - d. immediate notification to the Red Cross and the United Nations of the arrival within Australia of any refugees or asylum seekers;
 - e. sufficient translation services are available in all refugee centres;
 - f. all refugees have equal access to facilities, benefits, assistance and information;
 - g. refugees and asylum seekers have access to community services and support networks;
- 10. express its concern at the treatment of refugees and asylum seekers who have approached Australia from the Malukas, Ambon and Sri Lanka;
- 11. encourage the Australian government to separate its trade policy from its response to refugees and asylum seekers;
- 12. ask the general secretary to communicate the concerns expressed in 3-12 to the Prime Minister, Cabinet, Leader of the Opposition, and leaders of minor parties.

Synod 2001

Social Justice Commission:

25/2001 Noting the Synod resolution 53/2000, the Synod approved by consensus to:

1. encourage the Australian Government to:
 - a. address the issues of stateless people, by establishing a new category of bridging visa with full allowances for those assessed as posing no danger to the community;
 - b. address the issues of children in detention, by allowing children under 18 years and their families to be released into the community on bridging visas as soon as initial assessments are made. No child should be held in detention;
2. commend and celebrate the work of those within the Uniting Church and wider community who work with refugees and asylum seekers as they commence their resettlement in Australia;
3. recommend congregations utilise the Election 2001 briefing paper to explore our nation's commitment to confront racism, respect ethnic diversity and ensure just and humane treatment for refugees and asylum seekers.

26/2001 The Synod approved by consensus to:

1. demand that, whilst the Australian government continues to maintain a mandatory detention policy for asylum seekers who arrive without valid visas, it must also ensure that international, national and state minimum standards for incarcerations are met;
2. request the General Secretary to immediately convey our concern in this matter to the Prime Minister, Minister for Immigration and Multicultural Affairs, and the Leader of the Opposition.

Synod 2002

Social Justice Commission:

58/2002 The Synod agreed by consensus:

1. to receive the report[F.7];
2. the proposals regarding asylum seekers [Appendix A – page F.7-6]:

Part A

That the Synod note:

- a. the principles adopted by the Assembly Standing Committee regarding the human rights of asylum seekers and Australia's appropriate response to them; in summary:
 - i. the human rights of all people must be upheld at all times;
 - ii. the Australian response to asylum seekers and refugees should be culturally sensitive and take into account the situations from which people have come;
 - iii. Australia's policies and legislation should reflect a commitment to the rights and safety of asylum seekers and distinguish these from issues such as border protection;
 - iv. there should be no discrimination in the treatment of asylum seekers, refugees and humanitarian entrants;
 - v. appropriate and sensitive language should be used when describing asylum seekers and refugees;
 - vi. Australia must help those who come to Australia seeking asylum to put their case for asylum;

- vii. Asylum seekers must have full legal rights and protection;
 - viii. Australia must help those who come to Australia seeking asylum by providing those services required by human rights law;
 - ix. Australia's policies and legislation should refer particularly to the rights and needs of child asylum seekers and refugees;
 - x. Australia must act towards asylum seekers, refugees and displaced persons in a way consistent with good global citizenship and Australia's relative affluence;
 - xi. the immigration system should be accountable and transparent;
 - xii. people whose refugee claims have been rejected and who are waiting to be returned should be treated justly and humanely;
- b. that in the Christian tradition:
- i. God shows particular concern for the stranger and the alien;
 - ii. Jesus calls us to be neighbour to those who are the victims of violence, persecution and poverty;
 - iii. Jesus reminds us that the test of our love for him is our concern for the homeless and those who are in prison or detention;
 - iv. caring for our neighbour in need is a response to the grace of God, which calls forth all that we are and all that we have;
- c. that in the past 12 months, the Uniting Church has engaged in extensive advocacy challenging Australia's current policy on asylum seekers including written and personal communication with the Department and Minister for Immigration, Multiculturalism and Indigenous Affairs, the human Rights & Equal Opportunity Commission and other relevant bodies;
- d. that in the past 12 months, a number of congregations, ministers, chaplains and members of the UCA have offered ministry to detainees in detention centres and to those who have been released, and advocated on their behalf;
- e. that there is a national task group on refugees and asylum seekers, with national Social Responsibility & Justice as the lead agency, and synods and other assembly agencies represented;
- f. that the Assembly has called on synods and congregations to contribute to a fund for ministry in remote detention centres such as Port Hedland; and
- g. that coalitions such as Justice for Asylum Seekers have developed detailed and workable alternative approaches to reception and processing of asylum seeker claims.

Part B

That the Synod note the Australian policy on refugees and asylum seekers discriminates unfairly between asylum seekers on the basis of their method of arrival in Australia, treating with greater punitiveness unauthorised arrivals by boat. The 'Pacific Solution' and the policy of mandatory detention for this group:

- a. violates both the specific rights they have under the Refugee Convention 1951, and their human rights under the international instruments that Australia has ratified;
- b. is especially harsh and harmful to children, who have a worse experience in detention centres than they would have if they were incarcerated in Australia after committing a crime;
- c. is damaging to the Pacific island nations who are used to process refugees who are rightfully the responsibility of Australia;
- d. ignores those organisations and individuals in the community who are willing to offer hospitality to new arrivals.

Part C

That the Synod encourage the moderator, Social Justice Commission, congregations and members of the Uniting Church to continue their work on this matter, and in particular:

- a. to make use of the Assembly principles in their advocacy;
- b. to continue to advocate on behalf of detainees whose human rights are being violated in Australia;
- c. to continue to find ways of assisting people in detention and people who have been recently released from detention;
- d. to pray for the world, that God may restore peace and justice, enabling displaced persons to return home;
- e. to pray for Australia, that as we await God's healing of the world, our nation might act with compassion and hospitality towards displaced persons;
- f. to pray for those in detention centres in Australia, and for displaced persons around the world, that they may find courage, hope, community, healing and a safe home;
- g. to pray for the Australian Government and the Opposition, that they may interpret our international obligations with compassion and hospitality rather than with fear or political ambition.

Part D

That the Synod call upon the Government to:

- a. abolish all policies and practices which discriminate against and/or punish asylum seekers, refugees and humanitarian entrants;
- b. immediately release all children and their families (or primary caregivers in the absence of their parents) from immigration detention and offshore processing centres into monitored community release until they are granted protection or returned home safely;
- c. end the policy of indefinite mandatory detention of unauthorised arrivals who are asylum seekers and instate a humane and short-term system of health, security and identity checks;
- d. uphold the rights of refugees and asylum seekers. (In policy and legislation, our commitment to care for asylum seekers and refugees, including those whose claims have been rejected, must be clearly distinguished from issues of border protection and people smuggling.);
- e. abandon the 'Pacific Solution' and redirect the funding to the onshore protection program and the United Nations High Commissioner on Refugees (UNHCR);
- f. provide support for asylum seekers in the community including health and education services, legal assistance and assistance to meet basic needs. Grant all asylum seekers work rights and access to Medicare;
- g. ensure all refugees and humanitarian entrants have access to full settlement support and public services;
- h. abolish Temporary Protection Visas granted on the basis of entry into Australia or movement beyond the first safe country and grant all refugees Permanent Protection Visas;

Synod 2003

Social Justice Commission:

58/2003 The Synod agreed by consensus to:

1. resolve to communicate again, in the strongest possible terms, our condemnation of the action of the Australian Government in the forcible deportation of Iranian people currently held in detention in Australia;
2. request the Australian government to rescind its decision to deport;

3. request the Australian government to release the remaining Iranian detainees into the care of the Uniting Church in Australia-Western Australian Synod, CARAD, and the wider community; and
4. encourage members of the Uniting Church, as a matter of urgency, to visit their local member of parliament and request the members' intervention on this matter.

Synod 2004

Social Justice Commission:

53/2004 The Synod agreed by consensus to call on the Federal Government to:

1. grant permanent protection to all asylum seekers successful in their application for protection in Australia;
2. assess protection applications against humanitarian protection criteria arising from United Nations (UN) human rights treaties which Australia has signed, in addition to the Refugee Convention criteria;
3. grant Complementary Protection claimants successful in application under humanitarian protection criteria from UN human rights Australia has signed;
4. return failed protection claimants to their country of origin only if it is safe to do so and only where the claimant does not meet Refugee Convention criteria or Complementary Protection criteria;
5. take into account the following factors in assessing whether a country is safe for a person to be returned to:
 - a. independent reports by human rights agencies and other non-government organisations (NGO's)
 - b. the assessment of the United Nations High Commissioner for Refugees, and
 - c. reports from other governments
6. not use intimidation or force chemical sedation and to avoid unnecessary use of restraints in the process of removing a failed protection claimant from Australia;
7. consult and notify both the person being removed and the relevant bodies/individual including government and non-government bodies in Australia and the country of origin of the person before the return;
8. close offshore processing centres such as Nauru, Papua New Guinea's Manus Island and Christmas Island;
9. repeal legislation to the excision of Australia territory from the Migration Zone;
10. share responsibility for the global movement of displaced people rather than shift responsibility to poorer nations;
11. abandon the use of detention as a deterrent.

The Synod agreed to write to the Prime Minister, the Minister for Immigration, Multicultural and Indigenous Affairs, the Leader of the Opposition and the Shadow Minister for Immigration to inform them of this resolution.

3. Presbytery and Synod of South Australia

Presbytery and Synod meeting November 2007

AFRICAN REFUGEES

PS07.22 It was agreed that the Presbytery and Synod:

1. Affirm the positive contribution made by African migrants to the Australian community, including to many local Uniting Church congregations.
2. Express its deep concern at the recent Federal Government decision that Australia should significantly reduce its refugee intake from Africa, and that as a result, no further applications from African refugees will be considered until July 2008.
3. Resolve to convey to all relevant Federal Ministers and persons elected as Federal Members of the House of Representatives and Senators within South Australia at the upcoming Federal Election:
 - The deep concern of this Synod with the decision
 - A request that the case be put to the Australian Government:
 - a. That the policy on determining eligibility for entry on humanitarian grounds should be that eligibility be based on the need for humanitarian assistance and not on the basis of a particular ethnic group's perceived ability to integrate.
 - b. That the decision to reduce the refugee intake from Africa should be reviewed in the light of the above policy.
4. Acknowledge the complexities of these issues and commit to pray for those entrusted with the responsibility for making these difficult decisions.