

# Australian Catholic Social Justice Council Submission to the Select Committee into a Certain Maritime Incident

Let there be no more 'boat people' brought to PNG, it is immoral. Rather, all asylum seekers caught on the sea heading for Australia should be allowed to land there and live in suitable conditions and be properly assessed under the scrutiny of the Australian people, who are better able to voice their approval or disapproval of the actions of the Government. The Government of Australia is far more scrutinised by the media, and more accountable to their people in real terms, than here in PNG.

Bishop Ambrose Kiapseni  
Bishop of Kavieng Papua New Guinea

We urge the Australian Government to review current policies for dealing with those who seek asylum here, so as to ensure that they are not discriminated against because of their mode of arrival in Australia.

We call for the abandonment of the practice of turning boats away and of escorting asylum seekers to other countries such as Nauru and Papua New Guinea. This is an unconscionable practice.

Australian Catholic Bishops' Conference  
Pastoral Statement on Refugees and Asylum Seekers 26 March 2002

The Australian Catholic Social Justice Council (ACSJC) was set up by the Australian Catholic Bishops' Conference (ACBC) in 1987 as the national justice and peace agency of the Catholic Church in Australia. The Australian Catholic Bishops' Conference mandates the ACSJC to promote research, education, advocacy and action on social justice, peace and human rights, integrating them deeply into the life of the whole Catholic community in Australia, and providing a credible Catholic voice on these matters in Australian society. The ACSJC is accountable to the ACBC through the Bishops' Committee for Justice, Development and Peace.

Working in close collaboration with the Australian Catholic Migrant and Refugee Office (ACMRO), a national agency of the ACBC mandated to work specifically in this area, the ACSJC has over a period of several years raised concerns regarding the Australian government's asylum and refugee policies.

This submission will address item (d) of the Select Committee's terms of reference regarding the 'Pacific Solution'.

## 1. Background

The Catholic Church in Australia, as elsewhere, has a long history of welcoming and assisting migrants, refugees and asylum seekers. As the Australian Catholic Bishops Conference recently affirmed:

*The Catholic Church in Australia, through the Catholic Immigration Offices at national and state level, religious Institutes, Church Organizations, and many dioceses and parishes, has taken and continues to take important initiatives to help refugees and asylum seekers. These have ranged from intervention at the policy and advocacy levels to providing refugees, asylum seekers, and those who have been granted Temporary Protection Visas, with advice and assistance with housing, employment, clothing, friendship, support and pastoral care.<sup>1</sup>*

The philosophical underpinnings for the assistance and advocacy of Catholic agencies in relation to asylum seekers and refugees are to be found in the scriptures and Catholic Social Teaching.

Catholic Social Teaching sums up the teachings of the Catholic Church on social justice issues. It is the effort to bring the light of the Gospel to bear on the issues we face in the social dimensions of our lives.

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<sup>1</sup> Australian Catholic Bishops' Conference, *Pastoral Statement on Refugees and Asylum Seekers*, 26 March 2002. Full text available on [www.catholic.org.au](http://www.catholic.org.au).

Catholic social teaching promotes a vision of a just society that is grounded in biblical revelation, the teachings of the leaders of the early church, and in the wisdom gathered from experience by the Christian community as it has responded to social justice issues through history. As a formal body of teachings the social doctrine has developed markedly in the nineteenth and twentieth centuries.

Church documents such as encyclical letters, pastoral statements, and pastoral letters are the main sources of social teachings. Some of these documents, such as Papal encyclicals, are international in scope and quite general. Others, for example, pastoral statements by local Bishops and national conferences of Bishops, look in detail at particular issues in particular places.

An extensive body of Catholic social teaching on asylum seekers exists at the local, regional and international levels.<sup>2</sup>

## 2. Key Principles

Catholic Social Teaching affirms that asylum seekers, as human beings, are entitled to enjoy the full range of human rights. Everyone is entitled to flee threats to their human dignity and rights, and to seek asylum in any country they can reach. It is the duty of the Government of each country to foster and protect the human rights of those within its jurisdiction. Where a country fails to do this, people are entitled to call on the protection of the international community. The whole international community, especially wealthier countries, has a moral and ethical responsibility to welcome refugees and asylum seekers.

The key principles of Catholic Social Teaching that relate to the 'Pacific Solution' are: the primacy of human dignity; the unity of the human family; the universal destination of goods; solidarity and the common good; and the purpose of governments. Although these principles are religious, they are closely related to customary international human rights law.

### **The primacy of human dignity:**

- ❖ Every human being is made in the image and likeness of God and has an inalienable and transcendent human dignity which gives rise to human rights.
- ❖ People are always more important than things. People are never a means or an instrument to be used for the benefit of another.

The Preamble of the *Universal Declaration of Human Rights (UDHR)* also affirms the inherent dignity and inalienable rights of the human person.

### **The unity of the human family:**

- ❖ Every human person is equal in dignity and rights. Every human community, every race and culture is equal in dignity and rights. The human family is one because we are all children of the one God.

This principle is echoed in Article 1 of the UDHR.

### **The universal destination of goods:**

- ❖ God intended the goods of creation for the use of all, and so everyone has a right to access the goods of creation to meet their needs.

UDHR articles 22 and 25 also reflect a right to the things needed for survival.

### **Solidarity and the common good:**

- ❖ We are all really responsible for each other and must work for social conditions which ensure that every person and every group in society is able to meet their needs and realize their potential.
- ❖ Every group in society must take into account the rights and aspirations of other groups, and of the well being of the whole human family.

The need to take into account the rights of others and the importance of community for human flourishing is affirmed in UDHR articles 28 and 29.

### **The purpose of governments:**

- ❖ Governments must protect, foster and promote the human rights of all people and all groups. Such rights are civil and political as well as economic, cultural and social. Governments must act not only in the interests of particular groups, but for the good of all. They must intervene in social and

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<sup>2</sup> For an examination of these teachings see Cornish, S., *Refugees & Asylum Seekers in Catholic Social Teaching*, *Catholic Social Justice Series*, No 44, Australian Catholic Social Justice Council, *forthcoming*.

economic life to establish conditions that help each person and each group to achieve their potential as freely and fully as possible.

- ❖ The basis, foundation and end of the state is the service of the human person. The interest of the person is paramount, rather than the interests of the state or national security.

Thinking along similar lines, the Preamble of the UDHR acknowledges respect for human rights as the foundation of freedom, justice and peace in the world.

Our concerns regarding the 'Pacific Solution' reflect a series of failures to respect these principles.

### 3. Concerns regarding the 'Pacific Solution'

- 3.1. All asylum seekers and refugees are human persons and as such are entitled to enjoy the full range of human rights. To seek asylum in order to protect one's human dignity and human rights is, in itself, a moral as well as a legal right. The 'Pacific Solution' seeks to prevent people without valid visas from entering Australia to exercise this right.

*Universal Declaration of Human Rights*, Article 14 affirms the right to seek and to enjoy asylum. Furthermore, the *International Convention Relating to the Status of Refugees* (1951), at Article 31 obliges ratifying States not to:

*... impose penalties, on account of their illegal entry or presence, on refugees who, directly from a territory where their life or freedom was threatened in the sense of Article 1, enter or are present in their territory without authorisation, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.*

- 3.2. The ACSJC is opposed to the mandatory detention of asylum seekers - whether on the Australian mainland, in areas excised from the migration zone or in the Pacific Islands - beyond the time necessary to conduct health, identity and security checks. It is inappropriate for Australia to seek to extend its own harsh policy to other countries.

As Bishop Ambrose Kiapseni, Bishop of Kavieng (which includes Manus Island), in a recent statement said:

*Why are we keeping people innocent of any wrongdoing in PNG behind barbed wire? Is it because our neighbour and benefactor has asked us to do this thing? Shouldn't our own laws in our own country take precedence over requests from neighbours?*<sup>3</sup>

- 3.3. Human rights laws should apply equally to all parts of Australia's territory. By excising certain areas from the migration zone and restricting the application of international human rights law, such as the *International Convention Relating to the Status of Refugees* and its Protocol, the 'Pacific Solution' breaches the principle of the universality of human rights. To say that human rights are universal, inalienable and transcendent is to assert that they apply to all people, at all times, no matter where they are, and that nothing can negate these rights.
- 3.4. The basic purpose of the 'Pacific Solution' is to dissuade people from seeking to apply for asylum on Australian territory.

By using certain groups of asylum seekers to 'send a message' to deter others, the 'Pacific Solution' makes mere instruments of vulnerable human beings who are seeking to exercise their rights. The policy is fundamentally disrespectful of the dignity and human rights of those seeking asylum.

- 3.5. The financial benefits to poor Pacific Island countries of detaining asylum seekers who have been intercepted by Australian authorities also risks instrumentalising asylum seekers. Already there are disturbing signs that asylum seekers may be treated as a source of revenue by their poor host countries prompting Bishop Kiapseni, Bishop of Kavieng to ask:

*Are the men, women and children we are imprisoning to be seen, now, as a commodity, to be sold back to Australia for the value of the improvements at Manus? Is this good?*<sup>4</sup>

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<sup>3</sup> Statement by the Most Reverend Ambrose Kiapseni MSC, Bishop of Kavieng (New Ireland Province, PNG), 13 March 2002. Text circulated with a media release from the Australian Catholic Bishops' Conference's Committee for Justice, Development and Peace, 19 March 2002.

<sup>4</sup> Ibid

- 3.6. In the view of the ACSJC the detention, potentially for long periods, of people seeking to exercise their rights should not be used for another's gain. The generation of profit by private contractors operating immigration detention centres, and the financial gain by nation states from agreeing to host detention centres are unethical.
- 3.7. To demonise asylum seekers for political gain is to use these people as mere instruments for another's benefit. It is a grave responsibility incumbent upon everyone in public life to promote the common good by ridding the public discourse of lies, misinformation and xenophobia.
- 3.8. Xenophobia is generally understood as a fear of, or hostility towards foreigners, or people who are considered outsiders to the community or nation. The Australian Government's determination to prevent asylum seekers who are predominantly from non-Western countries and profess non-Christian faiths, from reaching our shores, leaves Australia very vulnerable to the charge of xenophobia, especially when far less time and resources are allocated to addressing the much larger problem of visa over stayers, the majority of whom are from wealthy Western countries.

In fact, the harsh treatment of migrants appears to be increasingly integral to official immigration policies around the world, both reflecting and contributing to inflamed xenophobic fears among populations at large. Underlying these developments is a failure to see our shared humanity. All of us share a responsibility of caring for every human person, irrespective of where they come from. Racism is both a contributing factor in and a symptom of such policies.

- 3.9. In the experience of church and community agencies long periods of detention, especially when the term of incarceration is indefinite, are in themselves destructive of human dignity<sup>5</sup>.
- 3.10. Viable alternatives to detention exist and should be pursued. Church and community groups have consistently sought to work constructively with Government to develop and apply such alternatives.<sup>6</sup>
- 3.11. Housing asylum seekers in areas where malaria is endemic shows scant regard for the welfare of these people. Furthermore, it is unclear whether or not trauma and counselling services are available to the detainees on Nauru and Manus Island in appropriate languages.
- 3.12. While the conditions in the Nauru and Manus Island Immigration Detention Centres are basic, they may in some regards compare favourably with the conditions in which local communities live. Even basic facilities may become the source of local jealousies and resentment of Australia's rather self-interested 'generosity'.

Bishop Kiapseni observes:

*Now we read in the newspapers of the first class medical facilities being made available primarily to the asylum seekers. We must compare this to the facilities we offer our own citizens. The nation is struggling to provide even the most basic health care to our citizens at our aidposts, health centres and hospitals. Is it right that such a first class facility be provided for people who do not even want to be here?*<sup>7</sup>

- 3.13. People, communities and nations have a right to what they need to survive. We may not either as individuals or as nations squander resources while others are in need.

The ACSJC is seriously concerned about the potential impact of the 'Pacific Solution' on Australia's aid and development programs in the region. Are important priorities being put aside while funds are redirected to effectively bribing our neighbours to detain asylum seekers?

As Bishop Kiapseni says:

*Is our neighbour and benefactor holding the very sharp AID ASSISTANCE sword over our heads – meaning, given the amount of aid from Australia to PNG, our government has no option other than to accept the boat people? I am sure the good Christian people of Australia would want a portion of their tax dollars spent assisting their less fortunate*

<sup>5</sup> see for example, Bishop Eugene Hurley, Bishop of Port Pirie, *Press Statement*, 30 January 2002, Sydney.

<sup>6</sup> See for example the Refugee Council of Australia's Alternative Detention Model [www.refugeecouncil.org.au](http://www.refugeecouncil.org.au) and alternatives outlined by Fr Mark Raper SJ, Director of Uniya and a former International Director of the Jesuit Refugee Service, in a talk prepared for the 2002 Jesuit Lenten Series, *Is there not a Better Way?* Available at [www.uniya.org.au](http://www.uniya.org.au)

<sup>7</sup> Bishop Kiapseni, op. cit.

*neighbour to the north, without the threat of such a 'sword', for is this sentiment of help not a basic Christian ethic?*<sup>8</sup>

Australia's use of economic power to 'encourage' its neighbours to cooperate in the 'Pacific Solution' has already been destructive of regional relationships and undermined regional cooperation.

Are we addressing the urgent development needs of our neighbours, or diverting resources to effectively pursuing our own interests in their countries?

- 3.14. The ACSJC is concerned at the rumoured cost of the 'Pacific Solution' and the lack of transparency in these arrangements which involve the expenditure of public funds. To our knowledge, the agreements with the governments of Papua New Guinea and Nauru have not been made public, and the funding arrangements remain unclear.

Would it not be more appropriate and less expensive to process asylum seekers on-shore while addressing root causes of flight such as poverty, political instability and human rights abuses?

- 3.15. It is not realistic for Australia to expect the poor countries of our region to continue to be the major countries of first asylum hosting millions of asylum seekers while waiting for third countries to resettle small numbers of hand picked refugees. This is an international problem that requires truly international thinking rather than operating out of our national interests, narrowly conceived.
- 3.16. The tragic flow of asylum seekers is unlikely to be stemmed soon. As well as putting in place an adequate protection regime, the international community must address the root causes of involuntary displacement. We cannot exist as an island of prosperity in a sea of misery. We must address the causes of poverty, political instability, discrimination and human rights abuses that give rise to involuntary displacement.
- 3.17. It is a fundamental inversion of values for the interests of the state, or of national security to be placed before the protection of the human dignity of asylum seekers and refugees. Human rights protection must be the basic purpose of the asylum regime.

## **Appendix:**

Australian Catholic Bishops' Conference, *Pastoral Statement on Refugees and Asylum Seekers*, 26 March 2002

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<sup>8</sup> Ibid