

WATCHING BRIEF: WB 18-4 REFUGEES AND UNHCR

As Quakers we seek a world without war. We seek a sustainable and just community. We have a vision of an Australia that upholds human rights and builds peace internationally, with particular focus on our region. In our approach to government we will promote the importance of dialogue, of listening and of seeking that of God in every person. We aim to work for justice and to take away the occasion for war.

August 2018

Recently the United Nations High Commissioner for Refugees released a final draft of the *Global Compact on Refugees*. This is part of the ongoing contribution of UNHCR to the refugee crisis. What follows is a summary of that Compact, the work of UNHCR, and reflections on where Australian policies stand.

Background

The United Nations High Commissioner for Refugees (UNHCR) was established under Article 22 of the United Nations Charter as a subsidiary organ of the UN General Assembly. UNHCR has the mandate to protect refugees, forcibly displaced communities and stateless people, and assist in their voluntary repatriation, local integration or resettlement to a third country. Its current budget is close to \$US 8 billion, and it works in 128 countries, with 11,500 staff (87% in the field).

There are currently 25 million refugees in the world according to UNHCR, most hosted in low and middle income countries close to where they fled. There are also 40 million internally displaced people. In 2016 all UN member States agreed to work towards adoption of a Global Compact, and set out a Comprehensive Refugee Response Framework and Program for Action. On 26 June 2018, after a careful assessment of the ways in which States can fairly share their responsibilities to refugees, and after consulting Member States, UNHCR issued its final draft Global Compact on Refugees. The Compact covers three main aspects:

- The importance of cooperation between States in ensuring that refugees are protected and long-term solutions achieved.
- The increasingly urgent issue of how refugees should be treated prior to a decision being made on their status.
- How to facilitate greater investment and involvement of different stakeholders in responding to mass movements of people in the future. In a statement on 6 July 2018, the UNHCR, Filippo Grande, spoke of the assistance received from many countries, NGOs and refugees in drafting the Compact, and indicated he would present it to the UN General Assembly in his annual report this year.

In an analysis by Alexander Aleinikoff and Susan Martin for the Kaldor Centre for International Refugee Law, the following summary is given:

The aims of the GCR are: to improve burden- and responsibility-sharing for refugee protection among States; strengthen national protection systems and response capacities worldwide; enhance social and economic conditions for refugees and host communities; and resolve protracted situations of displacement through the achievement of durable solutions. To achieve these aims, the GCR proposes several new structures for international cooperation, including the convening of global refugee summits and the establishment of a Global Support Platform. It also endorses, albeit in a limited way, increasing the scope of international protection to include persons other than refugees who are without the protection of their own country. These would be welcome contributions to the international protection of refugees. However, other challenges remain.

The authors offer some recommendations – that the draft Compact:

- expressly reference rights beyond those set out in the 1951 Refugee Convention, including rights accepted by States under the International Covenants on Civil and Political Rights (ICCPR) and Economic, Social and Cultural Rights (ICESCR), as well as those rights which are essential to refugees' well-being and their ability to achieve self-reliance;
- expressly recognise the right of every person to seek asylum, as prescribed in the Universal Declaration of Human Rights;
- include targets relating to health and education, work opportunities, inclusion of refugees, and achievement of durable solutions, as well as expressing the need for enhanced funding;
- expand its approach to accountability of all stakeholders to refugees, including that of States;
- recognise and take into account the broader macro-economic policies which may have an impact on the capacities of host-States and communities to promote refugee protection;
- adopt stronger language in favour of refugee inclusion and participation, particularly with respect to women and youth;
- recognise more fully the international protection needs of groups other than refugees, including by adopting relevant language from the draft GCM; and
- focus more specifically on protracted refugee situations, and call for concerted efforts to enhance refugee mobility as an alternative pathway to solutions.

UNHCR Comments on Australia's Policies

Thomas Albrecht, the UNHCR Regional Representative based in Canberra, gave a major speech at ANU on 24 July 2018 on Australia's role in the international refugee protection system. He made the following points:

- Australia has had a remarkable role over many decades, drawing on the fundamental values and principle of protecting human beings who have had to flee their homes because of fear of persecution owing to race, religion, nationality, political opinion or membership of a particular social group.
- After playing a leadership role in establishing the 1951 Refugee Convention, Australia accepted many displaced people in the post-WW2 period – about a million. Its resettlement programs are excellent.
- The recent decision to raise the humanitarian intake to 18,750 for 2018-19 is welcome in the context of refugee needs worldwide. It follows a period since 2013 when the intake was lower.
- The emergence of greater focus on border control, while understandable, puts at risk the importance of protection for those seeking asylum. We cannot expect refugees to stop taking risks of using smugglers and traffickers if we do not provide safer ways.

- The key question for Australia is – how can Australia fairly and compassionately address the challenges and implications of a truly global displacement system? The use of ‘off-shore’ processing falls well short of an adequate response, and has caused for many in Nauru and Manus greater suffering than their earlier trauma in the place they left.
- Efforts to enhance comprehensive regional approaches, based on sharing responsibility, are most significant. The Bali Process, with 48 members including UNHCR, is a good example. Australia has given its support to the protection language used in the Bali 2016 Declaration, and needs to follow up with policies that reflect those sentiments. The current ‘operation sovereign borders’ leads to turning back a much higher proportion of asylum seekers than ever before., creating a greater risk that more people will face danger or persecution when returned.
- The people on Manus Island in particular have been given minimal information about their situation, and have been denied health and welfare facilities. In Nauru the situation is exacerbated by the significant numbers of women and children involved. Regardless of claims that these people are now the responsibility of the PNG and Nauruan governments, legally they remain the responsibility of Australia until they are adequately housed and settled. Even within Australia itself there are serious concerns about the withdrawal of services for the 30,000 refugees and asylum seekers held in limbo about their status.
- People seeking asylum should be detained for the minimum period needed for health, identity and security checks, and subject to judicial safeguards. Fast-track processing that bypasses proper legal processes should not continue. Those found to be refugees should be given permanent not temporary status, and enabled to be reunited with family.
- It is encouraging that more Australians now see that ‘the end does not justify the means’ and are calling for changes in policy and practice.

Australia for UNHCR

Australia for UNHCR is the partner agency that raises awareness and funds to support UNHCR’s global emergency response to humanitarian crises. Contributions from individuals, trusts, foundations and others ensure that UNHCR can deliver shelter, protection, clean water, food and medicines in areas of most need. In addition, longer term projects such as school building, running livelihood programs and providing healthcare can be supported. The group was established in 2000 and is now one of UNHCR’s top ten private sector donors globally, having raised \$39m in 2017. See www.unrefugees.org.au

Multifaith Statement on Asylum Seekers (23 July 2018)

This Statement was issued via the National Council of Churches by Rabbi Shamir Caplan, Bishop Philip Huggins, and Sheik Abu Omar. It drew attention to the continuing detention of 1600 asylum seekers and refugees on Manus Island and Nauru, still awaiting resettlement after five years in detention and suffering mental and physical harm. It affirmed the necessity for government policy to “give expression to the fundamental values that underpin the type of society we strive for”. Moral responsibility to the people placed on Manus and Nauru cannot be dodged by claiming that the PNG and Nauru Governments have legal responsibility. The statement continues:

“In the language of faith communities we say that each of us holds the spark of the transcendent and this informs our common commitment to treating all people with decency, dignity and respect...a practical way must be found as soon as possible to resettle the many hundreds of remaining refugees”.

Australia's Connection

In February 2018 the Refugee Council of Australia (RCOA) held a Refugee Alternatives Conference to encourage a committed response from Australia and the development of a national program of action. In its documentation for that conference, RCOA highlighted the action that Australia could take:

- Increase resettlement numbers to 20,000 immediately and then to 30,000 a year.
- Expand the number of alternative legal pathways (e.g. recognising sexual violence as grounds for protection, expanding access to higher education and skilled employment visas, and creating viable forms of community and private sponsorship).
- Increase humanitarian and development aid support to countries hosting refugees, especially in our region.
- Increase funding and support for UNHCR.
- Make a clear commitment to ensure Australia's response is based on consultation with refugees.
- Make a clear commitment to protect refugee, migrant and asylum seeking women in vulnerable situations, and champion child rights in the global compact.
- Actively work for regional protection strategies for asylum seekers and refugees in South East Asia.
- Devote attention and funding to addressing drivers of forced migration.
- Implement alternatives to detention.
- Make a commitment to address human trafficking.

Action that civil society could take is:

- Develop a program of action outlining civil society's role in advocacy and review of policies.
- Address xenophobia towards refugees through leadership and community awareness-raising.
- Create spaces and support for refugee participation in decision-making.
- Develop innovative programs to meet refugee needs.

RCOA is active in encouraging cooperative steps by government and civil society where possible to build on well-established Australian traditions of inclusion, good practice and service models, and participation.

Canberra, August 2018

References:

UNHCR websites, www.unhcr.org and www.unhcr.org/en-au/australia

Executive Summary of 'Making the Global Compacts Work', by T. Alexander Aleinikoff and Susan Martin (Kaldor Centre for International Refugee Law, Policy Brief 6, April 2018).

Refugee Council of Australia reports and media releases, see www.refugeecouncil.org.au

National Council of Churches of Australia, www.ncca.org.au

Australia for UNHCR, www.unrefugees.org.au