



LOOKING BEYOND AUSTRALIA'S NARROW DEBATE ABOUT ASYLUM

Address by Paul Power, CEO, Refugee Council of Australia, to the Annual General Meeting of the Southern Migrant and Refugee Centre, Dandenong, Victoria – 21 November 2013

Thank you for the invitation to speak today. I had no hesitation in accepting the invitation from Jenny Semple, who has contributed much to the work of the Refugee Council of Australia through her eight years on our organisation's Board.

It is great to be here today at the Southern Migrant and Refugee Centre, an organisation which is at the heart of settlement support in a community which is one of the most important centres of refugee settlement in Australia. I also acknowledge that I am also on the land of the Wurundjeri people, who have been custodians here for countless generations. We are so much the richer in Australia for having connections to the world's oldest surviving culture while being part of a nation which is becoming ever more diverse.

I am proud of this country, despite being well aware of some of its shortcomings. But pride in my country does not stop me from feeling a small sense of relief when, each year, I have the opportunity to hop on a plane and travel to Geneva to the main international meetings of the United Nations refugee agency, UNHCR. I'm relieved that I have the opportunity to leave behind the very narrow debate in Australia about refugee issues and can have my horizons broadened. Even though much of the news I hear is bleak, it is challenging and often inspiring to hear perspectives from so many parts of the world, from UNHCR, NGO counterparts and government representatives.

The contrast between the debate in Australia in June and July this year and the international discussions in Geneva was starker than in previous years. In Australia, politicians were debating whether Australia should push for a review of the Refugee Convention in the face of 25,000 asylum seeker arrivals by boat in 12 months.

In Geneva, the discussion was overwhelmingly about the crisis in the countries surrounding Syria, with the number of registered refugees in Lebanon, Jordan, Turkey, Iraq and Egypt pushing towards two million and hundreds of thousands of refugees still yet to be registered. People were worrying whether there was sufficient water in northern Jordan to meet the needs of the local population and the refugees. Could Lebanon, a country with a population of 4.3 million, cope with the one million Syrian refugees on its soil? I heard about the impressive efforts of UN agencies, NGOs, governments and local communities to provide shelter, food, water, sanitation, health services and education, as thousands of refugees continued to cross the Syrian border each week.

In June, 125 agencies combined for the largest global humanitarian appeal ever launched, seeking US\$2.9 billion for their work with Syrian refugees. The amount sought was remarkably similar to the A\$2.97 billion allocated in May by the Australian Government for immigration detention and "offshore asylum seeker management" in its 2013-14 Budget. In August, as the global appeal for Syrian refugees was struggling to meet half its target, the Australian Government increased its allocation for detention related services by \$351 million, the largest additional expense being its new plan to send asylum seekers (including Syrians) to Papua New Guinea never to return.

One of the clearest aspects of the Australian debate about asylum seekers is the pervading lack of international perspective. The issues are primarily discussed in light of the battle between Australian political parties, are viewed overwhelmingly from Australia's perspective alone and are

presented as being about people smuggling and unauthorised entry to Australian territory. The protection of refugees is rarely discussed.

Among the Australian delegates at this year's UNHCR NGO Consultations in Geneva was Parsuram Sharma-Luita, a representative of Melbourne's Bhutanese community. In the closing plenary of the gathering, Parsu had the chance to ask the UN High Commissioner for Refugees, Antonio Guterres, what he saw as the potential international impact of Australia and other countries backing away from their Convention obligations.

In response, Mr Guterres spoke about what he called "the Australian paradox". He praised Australia's generous resettlement program and said Australia's system of post-arrival settlement support was one of the world's best integration mechanisms for refugees. But, he said, there was something "deeply rooted in the collective psyche of the country" about boat arrivals. It was impossible to convince him and his agency that a few thousand people coming to Australia was a big refugee flow in view of the crisis in Syria and the number of refugees hosted by countries such as Pakistan. While accepting the necessity of some mechanism of deterrence for smuggling networks, Mr Guterres said those who reach Australia should be received and given access to Australia's asylum process.

Few people disagree that action is necessary to change the dynamics which result in thousands of asylum seekers paying large sums of money for dangerous boat journeys to Australia. However, because opinion is deeply divided as to whether this is a border protection crisis or a refugee protection crisis, there is little common ground on the most appropriate responses. The Refugee Council of Australia has argued for some years that Australia will not develop worthwhile and effective responses to displacement within our region while it largely ignores the difficulties many refugees face in getting access to protection. It may be possible to slow the flow of asylum seeker boats through deterrence in the short-term but, if the underlying problem of the lack of protection for refugees in the Asia-Pacific region is not better addressed, the current challenges are going to manifest themselves in new forms.

The global trends for refugee protection are bleak. The majority (6.4 million) of the 10.5 million refugees under UNHCR's mandate are classified by UNHCR as being in "protracted refugee situations" with no durable solution in sight. The average length of displacement for these refugees is around 20 years. Rates of voluntary safe return to countries of origin are declining. Integration is not available for refugees in many countries of asylum. Fewer than 90,000 of the world's refugees get access to resettlement in any year – that's less than one per cent of the global refugee population.

UNHCR has noted that, in response to such ineffective action to protect refugees, more refugee families are doing what they can to protect themselves. The increased movements by boat to Australia are part of a growing global trend of refugees travelling further afield to seek safety and to seek sufficient income to get relatives out of situations where they remain at great risk. This trend can be seen not only in our region but also in the movements of asylum seekers and migrants from North Africa to Europe, across the Gulf of Aden to Yemen and the Middle East, and from various parts of Africa southwards towards South Africa.

Despite popular belief in Australia, few refugees live in camps. According to UNHCR statistics, at the end of last year only 28 per cent of the 10.5 million refugees under its mandate lived in camps. Most refugees live in deep poverty in cities and villages, with little or no outside assistance and often without basic forms of legal protection.

Refugees living in poverty in cities such as Kuala Lumpur and Bangkok have told me that, while they may have escaped the persecution that forced them out of their country of origin, they now struggle with a set of problems they never imagined they would face. Despite UNHCR's recognition of their refugee status, they have no legal status in the country of asylum and no choice other than to work illegally in order to survive. Regarded as "illegal immigrants", they live in constant fear of arrest and detention. Refugee parents have broken down as they have told me about their fears for

their children growing up in a country which offers them no security, no access to the local education system and no future.

While we recognise that neither major political party in Australia seems seriously interested in effective action to improve refugee protection in Asia, we at the Refugee Council of Australia believe that an overwhelming focus on deterring people from seeking asylum will not achieve what the Australian Government hopes it will. Ultimately, governments in the region will be forced by circumstances to take greater account of the protection needs of the most vulnerable. When that time comes, bilateral or multilateral discussions between states should begin with discussion about how refugees' most basic needs for security can be addressed first, with future steps to occur gradually and step by step.

Aware that many people talk about the need to improve the protection of refugees in our region but few outline how it might be able to happen, last year, in our submission to the Expert Panel on Asylum Seekers, we outlined our version of the 10 steps required to improve the protection of refugees in Asia.

The first step would have to be removing barriers to the refugee determination processes which already exist. Many Asian nations do not have a domestic refugee status determination process and rely on UNHCR to step in and provide one. It is not actually UNHCR's job to determine refugee status but UNHCR intervenes in 66 countries where the host government will not or does not have the capacity to provide a suitable process. But even where a domestic or UNHCR process exists, many asylum seekers can't get access to it or have their access delayed. This year, newly arrived asylum seekers in Malaysia are being given appointments for the initial asylum interview in late 2015. They are expected to wait for more than two years, without legal status and no way of supporting themselves, before their asylum process even begins. This has got to change.

A second step must be to improve the support to NGOs providing vital services to refugees. Governments in countries such as Indonesia, Malaysia, Thailand and Bangladesh do very little – in some cases, nothing at all – to assist refugees. The assistance from UNHCR is often paltry. Most refugees have to survive on their own wits but the best help they get is often the help from NGOs. If we want to make life safer for refugees, if we want to provide constructive alternatives to boat journeys to Australia, we have to work towards ensuring that NGOs have more resources to do their vital work in emergency assistance, health care, education and legal representation – and that they are able to do this work unhindered.

A third step would have to be encouraging host governments to give legal permission to refugees to remain where they are while their refugee status is determined and a durable solution found. It is untenable that many asylum seekers going through the UNHCR processes and refugees already recognised by UNHCR are treated in many countries as illegal immigrants.

A fourth and closely related step would be to give refugees and asylum seekers the right to work. Overwhelmingly, Asia's refugees live in cities and towns, not in camps, and have no choice but to work in order to survive. In cities such as Kuala Lumpur and Bangkok, refugees are working. They are filling gaps in the labour market. They are contributing to the economies of their host countries. And they are being a burden on nobody. And yet they are doing all of this outside of the law, leaving them vulnerable to arrest at any time, to harassment and to exploitation by unscrupulous employers.

A fifth step would be to develop alternatives to immigration detention. Freedom from arrest and detention is critical to building the sense of safety and security for refugees living in an unfamiliar country. We must work towards policies which enable refugees and asylum seekers to avoid immigration detention and to facilitate the rapid release of those who end up being detained. They already are the beginnings of some policies to address this need in different parts of Asia but these need to be built on.

As the domestic support for refugees and asylum seekers develops, a next step could be encouraging host governments to provide them with access to basic government services. Middle income countries such as Malaysia and Thailand could do this relatively easily but poorer nations such as Indonesia and Bangladesh may need some international financial assistance to provide access to critical government services such as education and health care. Doing this would reduce pressure on UNHCR and NGOs which often step in to provide basic services when host governments are not prepared to do so.

As a regional process of improving the protection of refugees develops, we would have to confront the challenge of getting governments to work together to provide refugees with access to some form of durable solution. The three traditional durable solutions are assisted voluntary repatriation to the country of origin when it is safe to return, integration in the country where the refugee has been given asylum or resettlement to a third country. There could be some variations to these solutions – like, for instance, allowing some refugees to remain or to go to another country under migrant worker arrangements. Clearly, resettlement alone is not going to be able to provide answers for every refugee in Asia because, even with a doubling or tripling of the refugee places available worldwide, there still would not be sufficient places available. Many refugees in Asia now would be happy to remain where they are if they could do so legally, in safety, with basic levels of support and some hope for the future. And we know that many refugees would prefer to remain closer to their country of origin, in the hope that they may be able to return home at some point.

In thinking about how to develop durable solutions, we have to accept that opportunities are limited in countries with weaker economies, such as Indonesia and Bangladesh. But we must expect more of countries with growing economies such as Thailand and Malaysia, both of which now are net importers of labour. And certainly Australia, as a resettlement country with a large annual migration program and greater wealth than almost all of its neighbours, must be prepared to lead by making significantly greater commitments to resettlement. Australia is also well-placed to bring other resettlement countries to the table, to encourage the United States, Canada, New Zealand, the countries of Europe and Latin America and Asian countries such as Japan and Korea to consider how they can help. This regional approach would be based on a clear understanding that different countries have differing national capacities to provide long-term protection to refugees.

In our 10 steps, the eighth step would be encouraging nations to develop their own national asylum legislation. We need to encourage nations to move beyond relying on UNHCR to provide their refugee determination system for them. You may think this sounds like pie in the sky but there is slow and steady growth in the number of Asian countries doing this. The Philippines has functioning national refugee legislation which could provide a model for other nations in the ASEAN region. The Republic of Korea brought its new refugee law into effect in July this year. In Taiwan, there is active debate about developing national refugee legislation. So, national refugee determination systems are not only possible in Asia but there are examples working right now to protect refugees.

I would see promoting ratification of the Refugee Convention as one of the last stages of developing a better regional system of refugee protection. By then, it would largely be an affirmation of what already exists.

A final step in this 10-step process would be to work towards building regional consistency in asylum processes. If each nation has a domestic asylum system and there are agreements in place to work together to provide long-term answers for people who need protection, then we can begin to explore how these national asylum systems might work together, so that an asylum seeker would not be significantly advantaged or disadvantaged by seeking asylum within a particular country in the region.

This process I am outlining would take many years, even after we get to a point where some political leaders in the region are seriously interested in providing better protection for refugees. But we need a vision for something much better than what we see now. The Book of Proverbs tells us that “without a vision the people perish”. And the very sad reality is that people are perishing,

literally, not just on the seas but in many other ways, because of the lack of vision from the political leadership in our region.

In the meantime, while we dream of how things can be different, we have to deal the harsh realities of what is happening now in our country and even in this community. I will only briefly touch on some of the pressing concerns with Australian policy right now.

Maybe the quickest way to outline our concerns is to suggest to you the things which all of us should be worried about with current policy – which, I hasten to add, is the result of policies introduced by the previous Labor government and the new Coalition government.

- We should be worried that Australia is cutting the Refugee and Humanitarian Program by 6250 permanent places each year, at a time when resettlement and refugee protection is desperately needed.
- We should be worried that people who have come to Australia to seek protection from persecution are being sent to Papua New Guinea and Nauru – a former colony and a former trust territory of Australia – to experience indefinite detention with no clear plan for their long-term protection.
- We should be worried that more than 1000 people who have tried to seek asylum have been denied the opportunity to do so and forced back to their home country under Australia's so-called "enhanced screening" process.
- We should be worried that Australia is cooperating so closely with the government of Sri Lanka, to stop people escaping what has been and continues to be a major source country for refugees, a country led by an administration with a very poor human rights record.
- We should be worried for the many asylum seekers, including in this city, who are denied the right to work and forced to live in deep uncertainty on an allowance lower than we would consider appropriate for any Australian-born person.
- We should be worried that boat arrivals seeking asylum in Australia are now having to do so without funded legal advice and probably soon without access to independent review through the Refugee Review Tribunal.
- We should be worried that boat arrivals found to be refugees will be denied permanent protection and denied the opportunity to reunite with separated family members.
- And we should be particularly worried about the situation of around 50 refugees who, it would seem, are permanently in detention in Melbourne and Sydney, because of adverse security assessments which they cannot contest.

It is hard to be optimistic in the current circumstances, particularly for those of us who regularly meet those affected by these harsh policies. While it does shake the sense of pride in my country to which I referred earlier, I believe that many of these policies are unsustainable and will have to be reviewed at some point in the future, just as the policies of a decade ago were reviewed and modified between 2005 and 2008.

In the meantime, our role is to offer every bit of support we can to those who are suffering and to work as tirelessly as we can, not only to oppose things we are convinced are harmful but to put forward constructive and workable alternatives.