



31 January 2012

Humanitarian Program Submission
Assistant Secretary
Humanitarian Branch
Department of Immigration and Citizenship
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Dear Assistant Secretary, Humanitarian Branch

Thank you for the opportunity to provide a submission to the Department of Immigration and Citizenship (DIAC) Information Paper on *Australia's Humanitarian Program: 2012–13 and beyond*. Please find attached a submission from the Migration Institute of Australia (MIA).

The MIA is the peak body for migration advice professionals, representing more than 2000 Registered Migration Agents (RMAs) as well as qualified Education Agents (EAs) across Australia and overseas. The MIA holds interests in all areas of migration policy development and would appreciate the opportunity to contribute to future consultations regarding the Refugee and Humanitarian Program.

If you wish to discuss or have any questions in relation to this submission, please contact Maurene Horder or Pallavi Sinha on (02) 9249 9000.

Yours sincerely,

A handwritten signature in cursive script that reads 'Maurene Horder'.

Maurene Horder
Chief Executive Officer
The Migration Institute of Australia

MIA's General Position on Australia's Refugee and Humanitarian Program

It is the position of the Migration Institute of Australia (MIA) that Australia's Refugee and Humanitarian Program must hold a place of utmost priority within the Department of Immigration and Citizenship (DIAC).

All other program areas should, as much as is practicable, shift focus to better complement the principles held and outcomes achieved by the Humanitarian Program.

This is particularly relevant regarding Australia's Family Stream Migration, the program area most harmonised with humanitarian entry.

Due to the prioritising of immediate family members within the Special Humanitarian Program (SHP), as well as the more general "humanitarian" or compassionate roles served by any and all family reunification visas, there is a significant overlap between the two.

Because of these parallels, however, the contrasts between the streams are also more evident.

The MIA is of the view that a top-level, humanitarian focus within DIAC's overall Migration Program would prove a substantive benefit to migrants, sponsors and the wider Australian community.

This view is based on the understanding that the construction of the Humanitarian Program means its bottom limit in size, cost and scope is virtually fixed due to two related principles:

1. Australia's dedication to its international obligations; and
2. Australia's ongoing desire to surpass those obligations.

Its upper limit, however, is mutable and dynamic, based on three more broadly subjective elements:

1. The mechanics of Australia's international humanitarian obligations;
2. A responsibility to uphold the democratic and popular will of Australian citizens;
3. Australia's capacity for managing and settling humanitarian arrivals; and
4. The number of places given to other streams of migration.

The MIA sees great merit in a Humanitarian Program larger in size and broader in scope. The limitations listed above allow for this if:

1. Relevant Non-Governmental Organisations (NGOs) expand their expectations or efficiencies;
2. Humanitarian entry become more popular amongst the Australian public;
3. The Government raise expectations regarding the country's capacity for new migrants; and / or
4. The Government can implement effectively a Private Sponsorship Program.

Amongst those four, the DIAC has perhaps most influence over the popularity of humanitarian entrants amongst the Australian public.

The Humanitarian and Refugee Program also may grow in scope and size through better, more strategic relationships with, and increased funding to NGOs, as well as broader study of the impact of increased migration on Australian culture, ecology and infrastructure to better determine capacity. Greater funding of NGO's could lead to expedited refugee status assessment, which in turn, could greatly assist decision makers assessing offshore global humanitarian applications.

The MIA is concerned that about the indication in the Information Paper that the outcome for the SHP in 2011-2012 will be the smallest in 30 years and could be as low as 750 places¹, which is even more alarming since figures suggest that the number of places has been declining every year since 2006-2007.² According to the Edmund Rice Centre, 71 countries accept refugees and asylum seekers in some form or other, and Australia is ranked 32nd.³ On a per capita basis, Australia is ranked 38th, slightly behind Kazakhstan, Guinea, Djibouti and Syria.⁴ In addition, of the 29 developed countries that accept refugees and asylum seekers, Australia is ranked 14th.⁵ The MIA encourages DIAC to pursue all avenues for both prioritising and increasing the scope and size of the Humanitarian and Refugee Program.

The MIA is of the view that policymakers should engage in more dialogue with registered migration agents and advocates who have an extensive knowledge of refugee and humanitarian determination processes (about 20% of the MIA membership are registered migration agents who work in the refugee and humanitarian area).

¹ DIAC Information Paper *Australia's Humanitarian Program: 2012–13 and beyond* at page 4.

² Figures available on the DIAC website

³ Just Comment – A joint publication of the Edmund Rice Centre for Justice and Community Education and the School of Education, Australian Catholic University, “Debunking the myths about Asylum Seekers”, Special Edition, September 2011.

⁴ Ibid.

⁵ Ibid.

Questions Addressed in this Submission

The MIA understands that specific elements of the Migration Program are the sole responsibility of relevant departmental officers and units and respects the primacy of the Minister and the DIAC with regards to particularly complex and sensitive Program areas.

The following represent the MIA's view on questions raised in the DIAC Information Paper, *Australia's Humanitarian Program: 2012–13 and beyond* (the Information Paper).

1. What practical bilateral and multilateral activities could Australia pursue to implement the Regional Cooperation Framework?

The Regional Cooperation Framework (RCF) established at the Fourth Ministerial Conference on 30 March 2011, is an excellent approach to addressing the complex problem of irregular migration in the Asia-Pacific region more effectively. Previously, Asia-Pacific cooperation came mainly from subregional groups such as Association of South East Asian Nations, South Asian Association for Regional Cooperation, and the Pacific Islands Forum (their main area of cooperation is economic). In light of the large amount of irregular movement in the region and frequent arrivals of people by boat to Australia, a large scale regional approach to this problem is appropriate. The MIA supports a RCF that is underpinned by core principles such as providing asylum seekers with access to consistent assessment processes.⁶ The MIA also recognises the importance of practical guiding considerations for the RCF, such as arrangements reflecting the principles of burden-sharing and collective responsibility, while respecting sovereignty and the national security of concerned States.⁷ Ministers at the Fourth Ministerial Conference tasked officials from Ad Hoc Group countries and other interested countries to operationalise the RCF in conjunction with the UNHCR (United Nations High Commissioner for Refugees) and International Organization for Migration.⁸

Practical bilateral and multilateral activities that the MIA suggests Australia could pursue to implement the RCF include:

- Increase the amount of meetings and dialogue with individual member countries of the RCF, and groups of member countries of the RCF. It is a progressive step that a significant number of countries have joined the RCF, a large proportion of which are not parties to the *United Nations Convention relating to the Status of Refugees 1951* (the Convention) or the *Protocol* (and they have made little or no attempt to provide for the protection of refugees in domestic law). In this context, the MIA is of the

⁶ Paragraph 16, Co-Chairs' Statement, Fourth Bali Conference Ministerial Conference on People Smuggling, Trafficking in persons and Related Transnational Crime, Bali, Indonesia, 29-30 March 2011.

⁷ Ibid at Paragraph 19.

⁸ Ibid at Paragraph 23.

view that Australia should continue to highlight the mutual benefits of sharing the burden of refugee intake, without impeding on any country's national sovereignty.

- Promote regular meetings of the RCF and Ad Hoc Group countries. It is not clear exactly how often the RCF and Ad Hoc Group countries meet. Greater dialogue and communication is integral to effective implementation of the RCF.

- 2. What should the priorities of the offshore SHP places be? Should immediate family continue to be the highest priority group?**
- 3. Are there alternative ways to identify and prioritise applicants who are in refugee-like situations, but do not have close family links to Australia?**
- 4. How could immediate family places be "rationed" or prioritised within the caseload?**
- 5. Should higher priority be given to those in the greatest need of resettlement?**
- 6. Should a balance be struck between the competing priorities of split family and greatest need and if so, how could this balance be achieved?**

The protection of all refugee and other humanitarian applicants' safety and dignity is paramount. DIAC and other relevant Australian Departments as well as NGOs, especially the UNHCR, must ensure through all available means that those in refugee camps around the world as well as those who manage to arrive in Australia are treated well and protected from further harm. The MIA submits that greater consideration should be given to upholding the principles enshrined in the Convention.

The MIA is of the view that it is both logical and compassionate to retain "immediate family" as the highest priority group within the SHP, especially given the size and importance of Family Stream Migration, which makes up nearly one-third of the Migration Program's total planning level.

Australia's commitment to family reunification within and outside of its Humanitarian and Refugee Program has played an important role in creating and nurturing its noteworthy multicultural character, as well as in the integration of new migrants into the Australian culture.

It is for this reason that the MIA also urges the DIAC to review the processing procedures for family stream visas, particularly with regards to the notoriously long processing times for Parent and Partner visas, acknowledging the generally humanitarian role these visa types play for both residents and potential migrants, as well as their positive contribution to larger Australian culture.

The MIA submits that immediate family should continue to be the highest priority group, regardless of class or type of visa, although other factors, including those in "greatest need", hold some claims to precedence as well. Judging or determining which applicant is in "greatest need" would be a difficult and complex assessment to make. As judging "greatest need" may require further investigation, an initial decision on those grounds may

not be practicable, particularly as a top-line prioritisation. Should further cooperation with overseas governments and NGOs with a presence in conflict zones better inform the “greatest need” assessment, the MIA’s view on this matter may be different. However, if there were circumstances which made it abundantly clear that some applicant(s) had “greater need” than others (for example, after large scale wars such as World War II and the Vietnam War, Australia resettled large numbers of European and Indochinese refugees), consideration should be given to allocating higher priority to such applicants. This could be applicable within the immediate family places as well, i.e. if there were circumstances which made it abundantly clear that an immediate family member applicant had “greater need” than another immediate family member applicant, greater priority should be given to the former (and this is one potential method by which the immediate family caseload could be prioritised).

It is the view of the MIA that a balance can be best achieved through processing of all applicants fairly, outside of detention and with strong communications strategy designed to allow applicants greater understanding of the procedure being undertaken, the priorities that may affect their chances, their likelihood of success, the time they might expect to wait before a decision is made and all other options available.

- 7. Is a private sponsorship program required, and if so, how could it operate?**
- 8. Could a private sponsorship program help to bring increased numbers of humanitarian entrants to Australia? How?**
- 9. How much capacity and willingness is there in the community to contribute to the resettlement of humanitarian entrants in Australia?**
- 10. What are the challenges of a private sponsorship model?**

The MIA is of the view that if a model with limited or no budgetary impact can be developed, there is merit to a Private Sponsorship Program (PSP), particularly in light of the decreased number of places available to the humanitarian program as noted above. If it is possible to implement a PSP, such a program could increase the numbers of humanitarian entrants to Australia by providing them with another means by which to enter the country, and decrease the resettlement burden on taxpayers. One way in which it could operate is to provide incentives to community and private organisations that are willing to support the entry and resettlement of refugees to Australia under an existing visa category (such as the Subclass 202 (Global Special Humanitarian) visa). An example of such an incentive could be raising the profile of a community group or business which supports the PSP, such as by dissemination to the public via the media or DIAC, of information about these groups or businesses.

The capacity and willingness in the community to contribute to the resettlement of humanitarian entrants in Australia is varying. Some community organisations have shown a keen willingness by carrying out activities such as charity drives to raise funds for refugees overseas. However, there is also a lack of willingness prevalent in the community to contribute to resettlement of humanitarian entrants in Australia, which is

arguably due to negative perceptions of people arriving by boat based on misinformation and lack of understanding. The DIAC should play an important role in focussing attention on the many positive contributions of humanitarian entrants and challenging stereotypes, both at an individual level (e.g. community ambassadors) and more broadly (e.g. noting low refugee crime rates). More open, simpler language about the Humanitarian Program and a dedication to avoid obfuscation and legalese would allow DIAC to take immediate strides in countering lack of understanding. It is imperative to better resource the DIAC to better fulfil this role.

There are a number of challenges to establishing a PSP. Firstly, the cost involved in setting up a PSP. Secondly, if the number of applications increase as a result of the PSP, there may be more pressure on DIAC staff to process cases and the possibility of longer processing times. Thirdly, there will need to be consideration of how to monitor compliance by organisations and / or communities with sponsorship obligations.

The MIA is of the view that if a model with limited or no budgetary impact can be developed, there is merit to a PSP, and it would be worthwhile for DIAC to conduct a detailed consultation about the development of a PSP.