AUSTRALIA’S REFUGEE AND HUMANITARIAN PROGRAM 2013-14

Community views on current challenges and future directions

February 2013
Cover photo: Newly arrived Syrian refugees head towards their shelter in Za’atri refugee camp after a perilous night journey to Jordan. During 2012, more than 600,000 Syrians fled to neighbouring countries, 150,000 of them to Jordan. © UNHCR/B. Sokol

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This submission was produced by the Refugee Council of Australia under contract from the Department of Immigration and Citizenship, as part of the public consultation process to inform the submission to Federal Cabinet on Australia’s 2013-14 Refugee and Humanitarian Program.

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1. EXECUTIVE SUMMARY

During October and November 2012, the Refugee Council of Australia (RCOA) conducted national community consultations to gather views on issues to be considered by the Australian Government in planning its 2013-14 Refugee and Humanitarian Program. Consultations were conducted in 26 locations in 17 cities in eight states and territories. In all, 929 people attended, representing 230 organisations and 34 ethno-specific communities. The views expressed at these consultations form the basis of this submission.

1.1 GLOBAL REFUGEE SITUATION

The global refugee situation continues to be characterised by two major trends: the emergence of new crises and the intractability (and, in some cases, intensification) of existing crises. In 2011, the total number of new asylum applications received grew by 60% and 2012 saw more than 900,000 people displaced as refugees as a result of the crises in Syria, Mali and Sudan. Movements across land and sea borders continue to grow. Yemen received a record number of boat arrivals in 2012, with 107,532 people crossing the Gulf of Aden from the Horn of Africa.

At the same time, however, durable solutions for the long-term displaced remain elusive. Of the 10.4 million refugees under UNHCR’s mandate, 7.1 million (or more than two-thirds) are living in protracted situations. Voluntary repatriation of refugees to countries of origin has declined markedly from the peak of 2.4 million in 2002 to 532,000 in 2011. Integration of refugees in countries of asylum is very limited, with resolution of a refugee’s status through permanent residency or citizenship very rare in the main countries of asylum. Many refugees are left without legal permission to remain in the country of asylum and/or are living with the constant fear that they will be returned to their country of origin before it is safe to do so.

In 2011, only 0.7% of the world’s refugees were resettled and some refugee populations (including some of the largest in the world) had almost no access at all to resettlement. Resettlement needs continue to far outstrip available places: UNHCR has identified over 180,000 people as being in urgent need of resettlement in 2013, yet the number of resettlement places offered by governments to UNHCR will only be around 85,000. As a result of the continuing abuse of people in countries of origin and the extremely limited durable solutions for refugees in many countries of asylum, refugees and asylum seekers are, in increasing numbers, travelling further in search of protection.

RCOA’s community consultations drew hundreds of people who have lived and still have immediate family members in countries of origin for refugees and in many of the principal countries of asylum in Africa, Asia and the Middle East. Among the main concerns raised were corruption and violence in origin and asylum countries, the need for greater support for countries hosting large populations and the integrity and accessibility of UNHCR application and resettlement processes in some countries.

Groups nominated as being in priority need of resettlement included refugees living in protracted situations; those who are particularly vulnerable due to factors such as gender, age, disability, risk of detention or isolation from community support; and those facing untenable living conditions in countries of asylum due to ongoing violence and insecurity, harsh conditions and lack of basic humanitarian assistance. Consultation participants also spoke of the importance of Australia and UNHCR working together to promote resettlement, with a view to increasing the pool of resettlement countries and encouraging greater sharing of responsibility with the principal host countries.

In last year’s submission, RCOA drew together the feedback on resettlement priorities into a set of principles for Australia’s response. Those principles remain relevant and, we believe, are useful in reflecting on planning for the 2013-14 Refugee and Humanitarian Program:

1. The need for resettlement to be made widely available as a durable solution, through considering further expansion of Australia’s Refugee and Humanitarian Program, reviewing the
numerical link between the offshore and onshore programs and advocating with other nations for an expansion of their resettlement programs.

2. **A focus on resettling the most vulnerable**, including those who vulnerability is heightened by disability, risk of sexual and gender-based violence, separation from adult support (in the case of unaccompanied minors), risk of detention and isolation from community support.

3. **An emphasis on family unity**, in light of concerns raised over a number of years regarding the impact of family separation on successful settlement in Australia.

4. **The strategic use of resettlement to promote broader refugee protection**, with Australia working with other resettlement nations to encourage countries of asylum to improve conditions for refugees who remain in their territory.

5. **The need to balance resettlement needs in different regions**, with targeted resettlement from Asia and the Middle East associated with efforts to improve regional cooperation balanced with pressing resettlement needs from the Africa region.

6. **A coherent overarching government strategy for refugee protection**, articulating the roles of the Refugee and Humanitarian Program, official aid and development, involvement in multilateral forums and diplomatic action in addressing refugee situations worldwide.

**Recommendations**

1. RCOA recommends that, in view of the pressing need for resettlement from Africa, the 2013-14 regional target for resettlement from Africa be set at no lower than 25% of the offshore program.

2. RCOA recommends that the Australian Government review its approach to resettling refugees who are unaccompanied minors, at risk of detention or classified as being “out of region”, giving careful consideration to the vulnerability of refugees most isolated in countries of asylum.

3. RCOA recommends that the Australian Government work with the United States, Canada and other nations involved in the Working Group on Resettlement to explore how the host nations which have benefited most from resettlement (particularly Thailand, Nepal and Malaysia) can be encouraged to improve protection standards for refugees who remain in their territory.

4. RCOA recommends that the Australian Government develop, publish and implement a framework for Australia’s refugee resettlement program based on priority resettlement to the most vulnerable refugees, the promotion of family unity, the strategic use of resettlement and the consideration of global resettlement needs in the development of regional allocations.

### 1.2 AUSTRALIA’S REFUGEE AND HUMANITARIAN PROGRAM

The increase in the Refugee and Humanitarian Program intake to 20,000 this year was overwhelmingly endorsed by consultation participants. Some participants encouraged the Government to expand the program further, provided any increase was matched with careful planning and additional resources for settlement services (including Settlement Grants Program [SGP] services) to maintain the excellent record Australia has in humanitarian resettlement. Participants from regional centres particularly welcomed the increase and spoke about the great potential as well as under-utilisation of regional areas as settlement locations, citing employment, housing, lower costs of living and welcoming communities as key drawcards.

In terms of composition, many consultation participants articulated reservations about the decision to allocate 12,000 Refugee visas and 8,000 to the Onshore Protection and Special Humanitarian Program (SHP) in the context of current high demand on both of the latter programs and there was continued strong opposition of the linking of the two. Others pointed to increased Refugee places leading to increasing demands on already-overwhelmed family reunion options and the prospect of even greater numbers of refugees settling in Australia who will face the prospect of protracted or indefinite separation from their loved ones.
Indeed, while the need for enhanced access to family reunion has been one of the most consistently-raised concerns in RCOA’s community consultations over many years, this year the volume of feedback on family reunion issues exceeded that of any other of the consultation themes. Across the country, people spoke about the increasing difficulties faced by refugee families separated by conflict, displacement and resettlement and the further restriction of the already-limited pathways to family reunion. Many saw this as in fundamental conflict with Australia’s obligations as a signatory to a number of international conventions which emphasise the importance of family unity, and indeed to the foundations on which Australia has been built which place family as a central building block of society.

While humanitarian family reunion has not been clearly articulated as a right or principle within Australia’s Refugee and Humanitarian Program, the Expert Panel recommendations and subsequent policy changes have placed additional barriers in the path of families seeking to reunite. Moreover, it is no longer just extended family members facing protracted or indefinite separation but also a large number of immediate family members. Extended families now face protracted or indefinite separation due to the lack of places in the SHP and the lack of alternatives within the family stream of the Migration Program. However, the 16,300 split family applications in the SHP backlog that represent the wives and children of adult boat arrivals and the parents and siblings of unaccompanied minors, now face indefinite or protracted separation because of the reassessment of these applications, the reprioritisation of processing and lack of places in the SHP, and the difficulties in successfully applying for a family stream visa.

The devastating consequences of the lack of family reunion options were articulated clearly in almost every consultation by refugee community members and the services that support them. Ironically, one of the most commonly cited implications was that more people would be arriving by boat to seek family reunification. Other emerging trends included humanitarian entrants returning or planning to return to countries of asylum to convene with family despite the risks and costs, and reports of significant health, mental health, economic and social problems, including homelessness and destitution.

Consultation participants spoke of the need to more fully incorporate family reunion as part of the overall structure of the Refugee and Humanitarian Program in recognition of the fundamental importance of families being able to find safety together. In the absence of a clear humanitarian family reunion policy and planning, there was a call for reconsideration of how to deal practically with the significant backlog in the SHP, particularly for those affected by the most recent policy changes. These changes were widely considered to be an enormously costly, ineffective and punitive response to the problem of refugees being separated from their immediate families. The announced increase of 4,000 places in the family stream of the Migration Program, while generally welcomed, was also greeted with some reservations about whether this provides a viable pathway to humanitarian family reunion, considering the lack of concessions and barriers concerning cost, documentation and eligibility requirements and lack of access to migration advice. Many participants also warned of the implications of increasing numbers of refugees arriving in Australia on non-humanitarian visas who will not be eligible for settlement services and the implications of this further down the track.

The idea of a private sponsorship pilot was received positively by a number of participants, who saw the potential of such a program to open alternative avenues for resettlement and provide opportunities for the community to become more closely involved in the resettlement process. However, details of the private sponsorship model had not been announced at the time of consultations, so much of the discussion was hypothetical. When the Minister announced that, in the pilot phase, the visa application charges would be $20,000 to $30,000 for a family and no option for incentives was included, RCOA expressed disappointment, noting that the sponsorship pilot will not enjoy the same level of community support as a result.

**Recommendations**

5. RCOA recommends that the Australian Government consult with settlement service providers and mainstream agencies involved in providing support to refugees, to determine the additional
resources necessary to ensure ongoing quality service provision (particularly SGP services) in light of the expansion of Australia’s Refugee and Humanitarian Program.

6. **RCOA recommends that the Australian Government:**
   a) Immediately end the numerical link between the onshore and offshore components of the Refugee and Humanitarian Program.
   b) Should the Recommendation 6(a) not be implemented, expedite the implementation of Recommendation 21 of the Expert Panel of Asylum Seekers by conducting a review of the linkage between the onshore and offshore components of the Program, to set a timeframe for the end of the linkage.

7. **RCOA recommends that the Australian Government urgently review its plans for the pilot private sponsorship program, revising the proposed visa application charge to a level more affordable for community organisations and exploring ways of providing incentives for sponsors who work together to assist newly arrived refugees towards financial self-sufficiency.**

8. **RCOA recommends that the Australian Government conduct a thorough review of how humanitarian family reunion is addressed in policy and planning within the broader immigration program, with due consideration given to how to enable refugee families to be prioritised for timely reunion either within the Refugee and Humanitarian Program or in the general Migration Program.**

9. **RCOA recommends that DIAC allow the proposers of split family SHP applications subject to reassessment longer timelines for responding to letters requesting additional information. Responses received after the requested number of days should be considered by DIAC in making an assessment.**

10. **RCOA recommends that DIAC issue a clear statement about how prioritisation in the SHP will be implemented, what this will effectively mean for those deemed ‘the lowest priority’ and expected timeframes.**

11. **RCOA recommends that the Australian Government reconsider the decision to remove eligibility to the SHP for refugees who arrive by boat after 13 August 2012 as a fundamental denial of the right to unity and protection for families.**

12. **RCOA recommends that the Australian Government enter into dialogue with UNHCR about establishing a process for identifying refugee families that are seeking reunification, facilitating assessment and registration in countries of asylum (particularly Pakistan and Thailand) and prioritising them for referral for resettlement under Australia’s offshore Refugee Program.**

13. **RCOA recommends that DIAC consider strategies for ensuring the 4,000 additional places in the family stream of the Migration Program are quarantined for humanitarian entrants and are accessible through:**
   - Introducing application fee concessions for humanitarian entrant proposers;
   - Introducing some flexibility in documentation requirements for people from refugee backgrounds;
   - Reviewing eligibility requirements that effectively exclude applicants from refugee backgrounds; and
   - Resourcing DIAC’s offshore and Australian processing offices to identify and consider applications from humanitarian entrant proposers separately from applications from non-humanitarian proposers.

14. **RCOA recommends that DIAC implement a targeted communication strategy to increase refugee community understanding of alternative family reunion pathways.**

15. **RCOA recommends that DIAC increase short-term funding to registered Migration Agents funded through the SGP to support the reassessment of SHP split family applications in the most efficient, fair and timely fashion. RCOA also recommends that consideration be given to increasing the overall amount of funding allocated for migration advice within the SGP in the upcoming funding round.**
1.3 REFUGEE PROTECTION IN ASIA-PACIFIC

Participants in RCOA’s community consultations highlighted ongoing violence, insecurity and persecution in the region’s major countries of origin for refugees (including Burma and Sri Lanka) and insecurity and harassment in countries of asylum such as Pakistan and Syria. These concerns match those raised by NGOs in the region who spoke of the continuing focus of governments on border control, the high risk of detention and limited access to legal protection for people seeking asylum. Concern was also expressed about the difficulties faced by asylum seekers in getting access to UNHCR and the timeliness of its responses. The difficulties faced by UNHCR in operating in countries where it is barely tolerated were also noted. Refugees on the Thai-Burma border spoke of their fears that they may be forced to return Burma well before conditions have changed sufficiently for them to be able to live in safety and freedom.

Across the region, refugees are seeking to have their most basic protection needs met – access to refugee status determination, legal permission to remain where they are, freedom from detention, adequate food and shelter, the right to work, freedom from violence and access to justice, access to physical and mental health care, access to education and access to a timely durable solution. When there is no durable solution in sight and refugees have endured years without some or many of these needs being met, onward movement becomes the most viable option available.

Developments relating to regional cooperation on refugee protection through the Bali Process during 2012 have centred on the establishment of the Regional Support Office (RSO) in Bangkok and the start of work on the Office’s foundation projects, including the development of standard operating procedures on voluntary repatriation and a mapping exercise on the treatment of unaccompanied and separated children in South-East Asia. The RSO was originally conceived as a mechanism to support the operationalisation of the Regional Cooperation Framework (RCF) agreed to by Bali Process members in March 2011. Progress on the development of the RCF has been slow and needs to pick up pace significantly if it is to meet some of the most pressing needs of refugees and asylum seekers in the region. RCOA encourages the Australian Government to seek opportunities for the greater participation of civil society in the Bali Process following the acknowledgement at the Bali Process meeting in November 2012 of the potential role of civil society in policy development.

The greater focus of the Australian Government on capacity building in the region following the Expert Panel report is a welcome step. However, the reintroduction of offshore processing is likely to damage prospects for a constructive regional framework for refugee protection through modelling the deflection of responsibility for asylum seekers to other countries. Australia’s promotion in the region of immigration detention and interception has contributed to a decline in the security situation for refugees in South-East Asia, adding to the factors which lead many refugees to seek greater protection elsewhere (most particularly in Australia).

Despite these concerns, Australia is still seen in the region as a country which is better placed than most to promote serious regional discussion about refugee protection and to bring resettlement nations to the table to discuss the role that increased resettlement support could play in brokering support for serious steps towards refugee protection. Two countries who should be encouraged to contribute constructively to improved refugee protection are New Zealand and Canada which have demonstrated their fears about onward movement in the region by introducing legislation to deal with perceived threats of “mass arrivals”. In providing leadership on refugee protection in the region, Australia must, in its own policy, model the protection safeguards needed across the region. According to the UN High Commissioner for Refugees, Antonio Guterres, a regional model for refugee protection must include “the right to asylum and respect for the principle of non-refoulement; humane reception conditions, including protection against prolonged and arbitrary detention; and access to basic rights such as education, health care, and employment [and] special support for vulnerable people.”

Despite the difficult conditions across the region for refugees and asylum seekers, there are some signs of hope. Examples include: successful efforts to bail refugees out of immigration detention in
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Thailand; a new executive order in India which offers refugees access to long-term stay visas and the right to work; new refugee legislation in South Korea and preliminary thinking on refugee legislation in several other Asian countries; and the potential for a system of regional citizenship in South-East Asia.

Progress towards improved refugee protection will inevitably be incremental, with ratification of the Refugee Convention a long-term goal in most countries. A process over a decade or more could include the following 10 steps:

1. Removing current barriers to existing refugee determination processes;
2. Creating space for and supporting NGOs to provide vital services to refugees;
3. Granting legal permission to remain while refugee status is determined;
4. Developing alternatives to immigration detention;
5. Granting the right to work;
6. Providing access to basic government services, including education and health;
7. Providing refugees with access to durable solutions;
8. Developing national asylum legislation;
9. Promoting ratification of the Refugee Convention; and

The pace of movement on regional cooperation is slow and more momentum is required, not only to get governments more actively involved in discussing the protection of refugees but also to involve a broader range of civil society representatives. The dialogue must move – and be seen to move – well beyond the interests of the Australian Government to include concerns across South East Asia and also South Asia, involving governments such as Pakistan and Bangladesh in discussions about the refugee needs they face in their territories. The March 2013 meeting of the Bali Process and the regional workshop on irregular migration by sea create opportunities to broaden the refugee protection dialogue and also to explore how civil society perspectives can be included in the discussion. One idea worth considering would be the formation of sub-regional eminent persons groups in South Asia and in South-East Asia to consider ways of addressing protection needs – an initiative probably best led by UNHCR.

The Australian Government’s focus on capacity building of NGOs in the region is welcome. There are pressing needs to support NGOs involved in supporting refugees and asylum seekers through education, health, legal advice, development of refugee leaders, support for unaccompanied minors, support programs for women and children, detention monitoring and release and community-based alternatives to detention. In addition, there is great capacity to build stronger partnerships between NGOs across borders, supporting frontline services with international expertise. Capacity building is also needed for government officials in the region, particularly in refugee status determination and the development of detention alternatives.

**Recommendations**

16. RCOA recommends that the Australian Government continue to work through the Bali Process to:

   a) Accelerate operationalisation of the Regional Cooperation Framework;
   b) Prioritise initiatives aimed at addressing the most pressing protection challenges across the region; and
   c) Foster opportunities for civil society participation, including in the activities of the Regional Support Office.

17. RCOA recommends that the Australian Government fully implement the Expert Panel recommendation to allocate $70 million a year in additional funding for capacity building initiatives in the region, with a particular focus on funding NGOs involved in supporting refugees and asylum seekers.

18. RCOA recommends that UNHCR actively consider promoting the development of sub-regional eminent persons groups in South Asia and South-East Asia to consider and promote effective responses to the protection needs of refugees.
1.4 OFFSHORE PROCESSING

There is no question that the appalling loss of life resulting from dangerous sea journeys to Australia necessitates an urgent and considered policy response. Feedback from consultation participants, past experience with similar policies, advice from organisations working in the region and RCOA’s own research all suggest that offshore processing is neither an appropriate nor effective way of addressing this issue.

The impact of offshore processing on the mental health of refugees and asylum seekers was raised as an issue of great concern among participants in this year’s consultations. Many had worked with former detainees or had themselves been detained, and expressed fears that people who spend prolonged periods in offshore processing facilities could experience the same mental health issues seen among long-term detainees in Australia. Some participants who worked with refugees subject to offshore processing under the Pacific Solution highlighted the “profound” mental health issues experienced by this group. A number of service providers expressed fears that the mental health impacts of offshore processing would diminish the capacity of refugees to settle successfully in Australia in the future. Particular misgivings were expressed about the impact of offshore processing on vulnerable groups, with the treatment of unaccompanied minors being a major area of concern.

Participants also expressed concern about conditions in offshore processing facilities and the services and support provided to asylum seekers residing in these facilities, citing the absence of legally-binding safeguards for people subject to offshore processing and the limited capacity of Nauru and Papua New Guinea to provide appropriate care and support to people seeking protection, including access to robust status determination procedures.

There was general consensus among consultation participants that offshore processing would not act as a deterrent to boat journeys. While participants were well aware of the risks associated with boat journeys and agreed that this issue needed to be addressed, offshore processing was not seen as an effective way of managing the problem. Many consultation participants drew attention to the issues which compel asylum seekers to undertake dangerous boat journeys, noting that refugees often had few viable alternatives available to them and are often facing immediate threats to their lives or freedom.

Many consultation participants expressed concern that the reinstatement of offshore processing and deterrence-based policies in general could have negative impacts beyond the individuals directly affected by these policies. The re-emergence of deterrence-based policies was seen as having a significant impact on negative media portrayal of refugees and asylum seekers and the tenor of the public debate on protection issues. A number of participants also felt that offshore processing could have a negative impact on protection standards across the region, arguing that Australia was setting a “bad example” for other countries. It was noted that, through eroding protections for asylum seekers arriving by boat, the Australian Government also undermined its capacity to promote greater respect for human rights in the region.

Offshore processing therefore ultimately undermines the only viable way forward, which is to work tirelessly and incrementally towards a sustainable and constructive regional framework for cooperation on refugee protection. Such a framework cannot be successful, however, so long as Australia continues to model policies which, if implemented by other countries in the region, would have disastrous consequences for people seeking protection. It is essential that Australia fundamentally reorient its policy approach to ensure a primary focus on achieving positive protection outcomes for all people fleeing persecution.

Recommendations

19. RCOA recommends that the Australian Government abandon offshore processing of asylum seekers who arrive by boat and return to a single statutory system of onshore processing for all asylum seekers, regardless of their mode of arrival.
20. Should Recommendation 19 not be implemented, RCOA recommends that the Australian Government develop the following as a matter of urgency:
   a) Clear criteria and timeframes for resettlement from offshore processing facilities;
   b) Improved mechanisms to protect the rights and wellbeing of people subject to offshore processing, including basic infrastructure, legal advice and guardianship arrangements for unaccompanied minors; and
   c) Arrangements for independent monitoring and oversight of status determination and resettlement processes and conditions in offshore facilities, including avenues for seeking resolution of or redress for any identified issues of concern.

1.5 PATHWAYS TO PROTECTION AND SETTLEMENT

The past 24 months have seen numerous legislative, policy and program changes to the processing system and pathways to protection for asylum seekers who arrive by boat to Australia. Some of the major changes, including the expansion of community detention, the shift to one refugee status determination process (since reversed) and the release of asylum seekers from closed immigration detention into the community on bridging visas, have provided a welcome opportunity for Australia to observe the practical impact of alternatives to closed immigration detention on settlement pathways.

In reflecting on the community release of asylum seekers, two consistent messages came out of consultations:
   • Firstly, that the opportunity for people to live in the community while their protection claims are assessed instead of being held in closed detention centres is a positive and welcome move by the Government; and
   • Secondly, that the current system of protection processes and programs supporting asylum seekers is unnecessarily complex and confusing and could be improved significantly.

A number of service providers commented on the artificial and complex nature of current asylum policy, from the detention system to the community-based programs. There were consistent calls for a simplification of the systems, whereby the focus of the program is centred on the people seeking protection and a holistic approach taken to supporting them to resolve their status. A number of consultation participants called for a system based on the current mainstream service delivery platforms (e.g. Centrelink and Medicare) instead of setting up separate and complex programs. There was a general recognition in consultations from those supporting asylum seekers on bridging visas in the community that significant gaps exist that undermine a person’s ability to make the transition from detention, particularly in the case of vulnerable groups such as long-term detainees, unaccompanied minors and other young people. There were repeated calls for the need to approach support for bridging visa holders through a holistic settlement framework and to refocus the program on proven indicators of good settlement: access to education, English language training, employment, orientation and housing.

Consultation participants in every state and territory spoke about employment as the issue that posed the greatest challenge for asylum seekers on bridging visas. While there were consistent and strong messages about the willingness and readiness of asylum seekers to work, this was not matched by their ability or, in some cases, entitlement to find work. Many people called for a well-defined and strategic policy framework related to employment services for asylum seekers underpinned by the right to work. The need for education and better messaging to employers and industry bodies about the entitlements to work, skills and opportunities presented by asylum seekers was raised in consultations across many states.

The question of how to best facilitate good, regular communication across all of the departments, agencies, organisations and communities working with asylum seekers and refugees was raised as a priority in the consultations. The need for open communication between providers was listed as essential to a holistic program. In addition, given the growing number of agencies and individuals providing support and services to asylum seekers in Australia, there was recognition among consultation participants that sector capacity building is required.
Across Australia, RCOA heard consistent messages about the dire effects that prolonged immigration detention has had on people. Many participants spoke about the impact of detention on a person’s ability to function in the community as profound. Several consultation participants, on the other hand, were happy to report that the shorter the period of detention, the higher the level of autonomy, engagement and agency among asylum seekers found to be refugees.

Consultation participants shared a number of stories about asylum seekers facing continual hurdles in trying to prove their cases and the inconsistency in decision-making. Several noted the stress and anxiety that waiting for a decision causes, as well as the challenges that asylum seekers face in understanding where they are within the process. Even people that started as healthy, well-engaged clients can end up disengaging from services or school or even communication with friends as they wait for extended periods of time for a decision on their protection claim.

During the consultation period, a number of RCOA members expressed concern about the situation of refugees facing prolonged indefinite detention due to adverse security assessments. RCOA acknowledges that the Government has already taken steps to enhance review of ASIO decision-making through the appointment of an Independent Reviewer to assess adverse security findings made against refugees. As a non-statutory process, however, the Independent Reviewer model cannot provide a consistent or long-term solution to the lack of procedural fairness in decision-making on security assessments. There is also a need to explore alternative community-based arrangements for individuals who are found to pose an ongoing security risk.

**Recommendations**

21. RCOA recommends that the Australian Government streamline and consolidate existing support programs for asylum seekers into a holistic, consistent and client-driven service delivery framework, based on the following core principles:
   - A central focus on the needs of the client;
   - Equal access to services and support regardless of status or mode of arrival;
   - Adopting a settlement-centred model focused on outcomes such as employment, education, English language tuition, housing and orientation;
   - A focus on early intervention to ensure the best outcomes for clients;
   - Safeguards to prevent destitution and ensure resolution of all cases;
   - Basing support services on existing service delivery platforms (such as Medicare and Centrelink) where possible, to avoid unnecessary administration and duplication; and
   - Inbuilt mechanisms to facilitate regular communication between all departments, agencies, organisations and communities working with asylum seekers.

22. RCOA recommends that the Australian Government review and streamline transition processes for refugees and asylum seekers moving through various stages of status assessment, with a particular focus on supporting vulnerable groups such as long-term detainees and unaccompanied minors.

23. RCOA recommends that the Australian Government support asylum seekers to secure employment through:
   a) Enhancing provision of employment support and other relevant services (such as English language tuition); and
   b) Working with employers to raise awareness about the entitlements of Bridging Visa holders, the value of workforce diversity and strategies to support employees from refugee backgrounds.

24. RCOA recommends that the Australian Government, in consultation with relevant service providers, develop a strategy to support capacity-building amongst groups providing support to asylum seekers in the community.
25. RCOA recommends that the Australian Government maintain its commitment to using detention only as a last resort and for the shortest possible time by working to further reduce the amount of time spent by asylum seekers (particularly children) in closed detention facilities.

26. RCOA recommends that the Australian Government work towards resolving the situation of refugees subject to negative security assessments by:
   a) Establishing a statutory review mechanism for security assessments made in relation to Protection Visa applicants; and
   b) Exploring alternative community-based arrangements to prolonged indefinite detention for these individuals.

1.6 KEY AND EMERGING ISSUES

A number of emerging and long-standing issues were raised by consultation participants, particularly access to employment, education and training, health and housing. The needs of unaccompanied minors and single adult males who are arriving in Australia through the onshore stream were also identified as key issues requiring consideration in the future planning of settlement services.

As in previous submissions, the lack of recognition of the skills and qualifications of humanitarian arrivals was a common frustration expressed by participants. Strategies to better utilise the contributions of refugees included incentives for employers (modelled along the lines of similar programs to employ people with a disability or Indigenous people) and improvement to employment support services. Concerns were expressed about the precarious nature of employment for humanitarian arrivals, work safety and exploitation, while some participants raised the need for targeted training to assist people starting their own businesses.

Access to affordable and appropriate housing remains a critical issue for refugee and humanitarian entrants who are experiencing financial hardship, with reports of some people paying as much as 80% of their income on rent. RCOA heard anecdotal reports that the lack of affordable housing options was leading to social isolation as people moved away from support, overcrowding, the use of unsuitable alternative accommodation like garages, caravans and sheds, single men living with families, and homelessness.

In the area of education and training, concerns were raised about gaps in appropriate pathways for young refugees and the needs of unaccompanied humanitarian minors (UHMs) at risk of disengaging from education. Alternatives to formal English classes, like on-the-job English training and linking English with employment skills, were identified as ways to build the English language proficiency of refugees who arrive with limited education.

Many consultation participants identified an emerging need for increased health support for a large and growing group of men who have been separated from their families. Gaps were also identified in regions where the needs of people with complex health and mental health issues were not being met by existing services and resources.

Settlement planning was raised at a number of consultations where participants called for better forward planning and cooperation between Federal, State and local tiers of government. Many participants observed that State and local government-provided services were not being adequately resourced to accommodate growing populations of humanitarian arrivals. Regional service providers spoke of the benefits and challenges of regional settlement, while community members called for greater involvement of refugee communities in the delivery of settlement services.
2. INTRODUCTION

The Refugee Council of Australia (RCOA) welcomes the opportunity to present this submission to the Australian Government, providing community views on some of the crucial issues impacting on Australia’s Refugee and Humanitarian Program in 2013-14 and beyond. This submission draws together the wisdom, concerns and ideas of many people and organisations from across Australia – people who have settled here having survived the refugee journey, those who have applied for protection, and representatives of many of the organisations involved in supporting refugees, asylum seekers and humanitarian entrants.

The consultation process for this submission, conducted during October and November 2012, involved 929 people from across Australia’s eight states and territories. Forty-seven consultations were held, including 46 face-to-face consultations and one teleconference. Twenty of the face-to-face consultations were held in regional centres. A list of consultation locations can be found in the appendices (see 9.1). Individual or group telephone consultations were conducted with 17 people in Australia upon request or due to their expertise in a particular area. A call for contributions to a discussion paper and consultation questions was also circulated through RCOA’s networks and website inviting written submissions, of which six were received. In all, 230 organisations participated in the process (see list in Section 9.2 of this report). This list includes only official organisations and does not represent the fact that refugee and humanitarian entrants from more than 34 communities participated, including people from the Afghan, Ahmadiyya, Ahwazian, Baha’i, Bhutanese, Burmese, Burundian, Cameroonian, Chin, Chinese, Congolese, Eritrean, Ethiopian, Hazara, Iranian, Iraqi, Karen, Karenii, Liberian, Mandaeans, Nuba, Oromo, Pakistani, Rohingyan, Rwandan, Sierra Leonean, Somali, South Sudanese, Sri Lankan, Sudanese, Tamil, Tanzanian, Togolese and Zomi communities.

This year’s consultations were guided by three key themes, agreed on by the Department of Immigration and Citizenship (DIAC) and RCOA:

- Australia’s response to international refugee needs;
- recommendations of the Expert Panel on Asylum Seekers and implications for Australia’s Refugee and Humanitarian Program (see below); and
- community views on how the different pathways to protection for refugee and humanitarian entrants impact on settlement experiences.

These consultation themes provided community member and service providers an opportunity to comment on recent changes to Australian refugee and asylum policy. Due to the rapidity and significance of the changes announced by the Government and their implications for the future of Australia’s Refugee and Humanitarian Program, RCOA used this year’s consultation as an opportunity to provide participants with a briefing as well as seek feedback on these changes. A PowerPoint presentation that was used as a basis for consultation briefings, as well as a discussion paper and consultation questions, can be found on the RCOA website (www.refugeecouncil.org.au/r/isub.php).

The consultations were conducted and the submission compiled principally by six RCOA staff – Rebecca Eckard, Lucy Morgan, Louise Olliff, Paul Power, Eileen Wahab and Andrew Williams. However, this submission is the result of the collective efforts of many people. Twenty-six agencies (see 9.2) hosted face-to-face consultations, inviting community members and service providers from their areas to participate. The help of key staff in these organisations was invaluable and their generosity and hospitality were much appreciated. The principal researchers were also supported by volunteers in RCOA’s Sydney and Melbourne offices, including: Stephanie Canning, Victoria Hammond, Danielle Marnock and Laura Wu.

The consultation process and preparation for this submission was funded by DIAC. RCOA appreciates DIAC’s support and its openness to receiving honest feedback from the community about the Refugee and Humanitarian Program and government policies and practices which impact on refugee entrants. This openness contributes significantly to building public confidence in the Australian Refugee and Humanitarian Program. We particularly appreciate the ongoing support given by Penelope Lee, Romany Nanayakkara, Jim O’Callaghan and their colleagues in DIAC’s Humanitarian Branch throughout the process of developing the submission.
The Expert Panel on Asylum Seekers

On 28 June 2012, the Prime Minister and the Minister for Immigration and Citizenship announced that the Government had invited Air Chief Marshal Angus Houston AC AFC, the former chief of Australia’s defence force, to lead an expert panel to provide a report on the best way forward for Australia to prevent asylum seekers risking their lives on dangerous boat journeys to Australia. The panel also included Mr Paris Aristotle AM, the Director of the Victorian Foundation for Survivors of Torture, and Professor Michael L’Estrange AO, the Director of the National Security College at the Australian National University.

On 13 August 2012, the Expert Panel on Asylum Seekers (hereafter the Panel) released its report after six weeks of consultation and research.\(^1\) The 22 recommendations in the report covered a complex series of issues: from regional capacity building and an increase in the offshore resettlement program, through to the establishment of offshore processing and a range of measures intended to deter asylum seekers from undertaking boat journeys to Australia. Given that the Prime Minister has committed the Government to implementing all 22 recommendations, RCOA sought community feedback on these recommendations and their ramifications as a key part of this year’s consultation process. The consultation process did not cover all 22 recommendations but focused on those concerning the future composition of the program, regional protection, asylum policy and family reunion.

3. GLOBAL REFUGEE SITUATION

3.1. EMERGING AND PROTRACTED REFUGEE CRISES

As 2012 began, the number of people displaced by persecution and conflict was estimated by the United Nations High Commissioner for Refugees (UNHCR) at 42.5 million – 26.4 million internally displaced persons, 15.2 million refugees and 895,000 asylum seekers. Of the 15.2 million refugees, 10.4 million were refugees under UNHCR’s mandate and 4.8 million were Palestinian refugees under the mandate of the UN Relief and Works Agency. During his visit to Australia in February 2012, UN High Commissioner for Refugees, Antonio Guterres, spoke of the scale and complexity of international displacements, noting that crises during 2011 in Cote d’Ivoire, North Africa and the Middle East, Somalia and Sudan had resulted in nearly 800,000 people becoming refugees. During 2011, 1,018,719 people were recognised as refugees – 809,071 through group recognition and 209,648 through individual recognition processes. The total number of new asylum applications received during 2011 grew by 60% on the previous year to 1,669,725 (860,654 individual asylum applications and 809,071 seeking asylum through group recognition).

In his address to the Lowy Institute in Sydney, Mr Guterres observed:

But as new crises multiply, old ones seem to never die. Conflicts are becoming more intractable, and sustainable political solutions are rare, leaving millions of refugees unable to return home to places like Afghanistan, Iraq or the eastern DRC. Durable solutions have become difficult to attain, and more than two-thirds of the refugees under UNHCR’s mandate now live in protracted situations of exile, having left their country of origin more than five years ago. Voluntary repatriation opportunities are scarce, with the number of annual returns in the last two years having dropped by 80% from the average of one million returnees per year over the past two decades. Similarly, the global total of available resettlement spaces – some 80,000 every year – covers only one in every ten refugees in need of this solution.

During 2012, the crises in Syria, Mali and Sudan grew considerably, with more than 900,000 people newly displaced as refugees. The number of registered refugees grew during the course of the year by the following amounts:

- Refugees from Syria – from 19,900 to 471,892, with the number of people awaiting registration exceeding 150,000.
- Refugees from Mali – from 4,295 to 186,711, peaking at 226,835 in late September.
- Refugees in South Sudan – from 105,023 to 203,363.
- Sudanese refugees in Ethiopia – from around 25,000 to 86,357.

The granting of asylum to around 1.7 million refugees from major crises in less than two years has been possible only because of the impressive hospitality of a number of host countries. In 2011, Liberia received 199,250 new refugees, Kenya 168,307, Tunisia 153,587, Ethiopia 131,424, South Sudan 76,845 and Yemen 28,642. In early December 2012, the primary host countries for registered refugees and people awaiting refugee registration after fleeing Syria were Lebanon (150,793), Jordan (141,291) and Turkey (135,519), while the primary countries of asylum for refugees from Mali were Mauritania (108,953), Niger (65,012) and Burkina Faso (37,626).

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6 UNHCR (2013c). Refugees in South Sudan: Registered Refugee Population [as at 31 December 2012], http://data.unhcr.org/SouthSudan/country.php?id=251

At UNHCR’s Executive Committee meeting in Geneva in October 2012, Mr Guterres praised these host states:

> In all the major refugee emergencies in 2011 and 2012, States kept their borders open and respected the principle of non-refoulement. They also provided a safe haven and allowed refugees to stay. And this is a very visible and profound statement of their commitment to refugee protection. The international community should recognize this effort and strongly reinforce it. We need genuine burden-sharing and effective solidarity to match the generosity of host States.  

### 3.2. ELUSIVE NATURE OF DURABLE SOLUTIONS

In a submission to the Australian Government’s Expert Panel on Asylum Seekers, RCOA noted that 7.1 million of the 10.4 million refugees under UNHCR’s mandate were in protracted refugee situations. UNHCR has not produced an average length of displacement for refugees in protracted situations but the University of Oxford’s Refugee Studies Centre estimates that this average is now “approaching 20 years”. The RCOA submission to the Expert Panel noted that:

- Asylum applications are increasing, growing from 1.05 million in 2010 to 1.7 million in 2011, as human rights abuses continue unchecked in many countries.
- Voluntary repatriation of refugees to countries of origin has declined markedly from the peak of 2.4 million in 2002 to just 197,600 in 2010 and 532,000 in 2011.
- Integration of refugees in countries of asylum is very limited, with resolution of a refugee’s status through permanent residency or citizenship very rare in the main countries of asylum and many refugees left without legal permission to remain in the country of asylum and/or living with the constant fear that they will be returned to their country of origin before it is safe to do so.
- Resettlement was a durable solution available to only 0.7% of the world’s refugees in 2011, with resettlement from UNHCR and non-UNHCR programs declining to 79,784 places (29% lower than in 2009). Some refugee populations had almost no access at all to resettlement. In the five years to December 2011, only 3,513 refugees were resettled from Pakistan and Iran under UNHCR-coordinated resettlement programs, despite these two countries hosting the world’s largest protracted refugee situation – 2.55 million registered refugees from Afghanistan and an unregistered refugee population estimated at 2 million. This means that UNHCR resettlement has been available to less than 1 in 3,000 Afghan refugees in Pakistan and Iran each year for the past five years.
- As a result of the continuing abuse of people in countries of origin and the extremely limited durable solutions for refugees in many countries of asylum, refugees and asylum seekers are, in increasing numbers, travelling further in search of protection. Over the past five years, there have been considerable increases in asylum claims in South Africa, Europe, North America and Australia.

### 3.3. FEEDBACK ON CONDITIONS IN COUNTRIES OF ORIGIN AND ASYLUM

RCOA’s community consultations drew hundreds of people who have lived and still have immediate family members in countries of origin for refugees and in many of the principal countries of asylum in Africa, Asia and the Middle East. Among the main concerns raised were corruption and violence in origin and asylum countries and the need for greater support for countries hosting large populations.

- **Human rights abuses and violence in countries of origin** – Many consultation participants raised specific concerns about killings, kidnappings, rapes and threats continuing to occur in countries such as Afghanistan, Iraq and the Democratic Republic of Congo (DRC), with

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10 UNHCR defines a protracted refugee situation as one in which 25,000 or more refugees of the same nationality have been in exile for five years or longer in any given asylum country.

11 See the PRS Project website coordinated by the Refugee Studies Centre, University of Oxford, [http://www.prsproject.org](http://www.prsproject.org)
members of religious and ethnic minorities and women who have lost male family members being the most vulnerable. Consultation participants argued that Australia must advocate internationally for human rights, using diplomacy, overseas aid and possibly even military aid as part of its efforts to promote fairer treatment of people in countries of origin.

- **The need for caution in giving aid to refugee-producing countries** – While it is important that Australia do what it can to support improved conditions in refugee-producing countries, aid should be carefully targeted, preferably supporting UN and NGOs in their programs for vulnerable citizens. Australia should refrain from supporting governments with a history of abusing their own citizens. “Giving them money is sometimes giving them power to abuse their citizens more than before,” one consultation participated commented.

- **Support for countries hosting large refugee populations** – International support, including from Australia, for countries such as Kenya, which has hosted hundreds of thousands of refugees for many years, is critical. Countries in the front line of major refugee movements play the most vital role of all in providing refugees with access to protection and need financial support and practical assistance with capacity-building and training to be able to go beyond merely hosting UNHCR’s activities.

- **Concern for the safety of relatives in refugee situations** – Across Australia, members of refugee communities expressed their fears for relatives living in refugee camps and in very difficult situations in urban areas. Many families of refugee background feel under great pressure to give all the financial support they can to relatives who are much worse off than they are. However, some commented that even the support they give can place their relatives in greater difficulty, particularly in camps where refugees receiving funds from overseas become targets for theft, acts of violence or jealousy. Some also expressed concern about increasing violence and insecurity in countries of asylum, particularly in Syria and Pakistan.

- **The importance of education and health for refugees** – A consultation participant in regional Queensland echoed the concerns of many when she appealed for greater Australian support for education and health programs in refugee camps, recalling the difficulties faced by those living in camps in her home country of Kenya. Young refugees need access not only to basic education but also to further study, to help them maintain a sense of hope for life beyond the camp. “As a parent, [not being able to educate my children] would be a pressing thing for me and I would understand why someone in that situation would get on a boat.”

### 3.4. AUSTRALIA’S ROLE IN REFUGEE PROTECTION

An analysis of UNHCR’s Global Trends 2011 statistics shows that Australia’s contribution to refugee protection is creditable but modest in terms of the number of people protected. Of the 1.02 million people who were registered or recognised as refugees in 2011, the largest numbers were received by nations in Africa and the Middle East, including Liberia, Kenya, Tunisia, Ethiopia, South Sudan and Yemen. Australia recognised 5,726 as asylum seekers as refugees in 2011, 0.56% of the global total for individual and group refugee recognition. Australia was 24th overall for recognising refugees, 29th on a per capita basis and 45th relative to national Gross Domestic Product (GDP).

**Table 1: Australia in global refugee statistics, 2011**

<table>
<thead>
<tr>
<th></th>
<th>Global total</th>
<th>Australian total</th>
<th>Australia’s share</th>
<th>Rank</th>
<th>Per capita</th>
<th>Relative to total GDP</th>
</tr>
</thead>
<tbody>
<tr>
<td>Refugees under UNHCR mandate</td>
<td>10,404,806</td>
<td>23,434</td>
<td>0.23%</td>
<td>47</td>
<td>71</td>
<td>89</td>
</tr>
<tr>
<td>Asylum applications received in 2011</td>
<td>1,669,725</td>
<td>15,441</td>
<td>0.92%</td>
<td>23</td>
<td>32</td>
<td>60</td>
</tr>
<tr>
<td>Asylum applications pending, 31 December 2011</td>
<td>895,284</td>
<td>5,242</td>
<td>0.59%</td>
<td>32</td>
<td>43</td>
<td>81</td>
</tr>
<tr>
<td>Asylum seekers recognised as refugees, 2011</td>
<td>1,018,719</td>
<td>5,726</td>
<td>0.56%</td>
<td>24</td>
<td>29</td>
<td>45</td>
</tr>
<tr>
<td>Refugees resettled from other countries, 2011</td>
<td>79,784</td>
<td>9,226</td>
<td>11.56%</td>
<td>3</td>
<td>1</td>
<td>1</td>
</tr>
<tr>
<td>Refugees recognised, registered or resettled, 2011</td>
<td>1,098,503</td>
<td>134,977</td>
<td>1.20%</td>
<td>22</td>
<td>23</td>
<td>64</td>
</tr>
</tbody>
</table>

By contrast, Australia is a world leader in the resettlement of refugees, the 9,226 refugees resettled in 2011 by Australia making up 11.6% of the global total of just 79,784 resettlement places. For resettlement, Australia was third overall and first on a per capita basis and relative to national GDP. When the combined impact of refugee recognition and resettlement is considered, Australia
contributed to 1.36% of the initial or further protection offered to refugees in 2011. By this measure, Australia was ranked 10th overall, 18th on a per capita basis and 30th relative to national GDP.

Australia’s leadership role in resettlement was enhanced with the 2011-12 chairing of the global dialogue on resettlement, through the Annual Tripartite Consultations on Resettlement (ATCR) and its Working Group on Resettlement (WGR). The ATCR and WGR bring together governments, NGOs and inter-governmental bodies involved in resettlement in up to 30 nations. RCOA was pleased to work closely with DIAC’s Humanitarian Branch in supporting Australia’s year as chair, which culminated in the 2012 ATCR gathering in Geneva (9-11 July). The highlight of the year was the WGR meeting held in Melbourne in February, which showcased refugee support programs conducted by NGOs and three tiers of government in Melbourne, Geelong and Shepparton and highlighted the vital role that former refugees play in supporting new arrivals. Australia’s knowledge about resettlement was also shared during 2012 with the strengthening of twinning relationships with the governments of Romania and Argentina. NGO and government representatives from both countries visited Australia in February and Australian NGOs participated in return visits later in the year.

The Australian Government’s increasing financial support of the work of UNHCR is also a significant contribution to international refugee protection. During his visit to Australia in February 2012, Mr Guterres acknowledged that the Australia Government’s financial contribution to UNHCR had nearly quadrupled in the six years he had been High Commissioner, to more than US$50 million in 2011. In addition, donations from the Australian public to UNHCR’s work had increased to $17 million. In an international environment in which financial support for UNHCR has decreased significantly since 2008, the increase in Australian support has been particularly valuable.

3.5. GLOBAL INCREASE IN MOVEMENTS BY BOAT

By contrast, the noise and tenor of the Australian debate about refugee movements in 2012 did not do the nation proud, as was widely noted in the community consultations held in preparation for this submission. This debate was out of all proportion to the global situation which, as acknowledged earlier, saw the displacement of more than 900,000 refugees from crises in just three sub-regions. Australia’s significant increase in boat arrivals to 17,202 in 2012, despite being higher than any previous year, was still much smaller than recent movements across the Gulf of Aden. UNHCR estimates that the number of irregular arrivals by sea in 2012 to Yemen was 107,532, eclipsing the previous record number of arrivals of 103,154 in 2011.12 In five years, more than 390,000 have entered Yemen by boat – 360,000 greater than the 31,209 boat arrivals received by Australia over the same period.13 In the five years to December 2011, boat movements across the Mediterranean Sea to Greece, Italy, Malta and Spain totalled 234,313, according to UNHCR estimates.14

UN Assistant High Commissioner (Protection), Erika Feller, put the matter into a global context during her presentation to UNHCR’s ExCom meeting in Geneva in October 2012:

> Urban refugees often arrive illegally, having crossed several borders. Many tragically do not make it. Irregular border crossing is a dangerous business, whether by land, air or sea. People are driven to take considerable risks: hiding in and under trucks, stuffed into car trunks, crammed into containers where lack of air, food and water claim lives regularly … Loss of life at sea, in the Mediterranean, the Gulf of Aden, the Caribbean or the waters of South-east Asia remains a serious threat. The boats are not adequate for the journey, the individuals themselves are ill-equipped for it and the smugglers are unscrupulous. Absent a functioning search, rescue and disembarkation protocol, passing ships may see little incentive to stop and help … While not all irregular movers are refugees under the international refugee definition, quite a number, particularly those leaving refugee producing

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14 The totals for 2007 to 2011 were Greece 48,160; Italy 130,821, Malta 7572 and Spain 47,760. Source: UNHCR website [http://www.unhcr.org/pages/4a1d406060.html](http://www.unhcr.org/pages/4a1d406060.html) [accessed 24/1/13]. 2012 figures were not available at the time of publication.
countries, are likely to be. The push factors are more often than not a complicated, even inextricable, mix of refugee and migrant concerns, including war, human rights violations and unsustainable lives at home, which blend with pull factors including reunification with families and the lure of better economic and education possibilities abroad.  

3.6. REFUGEE RESETTLEMENT

3.6.1. Trends in refugee resettlement and global needs

While the number of countries involved in resettlement has grown from 14 to 27 in just seven years (with resettlement being actively considered by another three countries), the number of refugees resettled in 2011 was 29% lower than in 2009. The 79,784 resettlement arrivals in 2011 included 61,649 through UNHCR processes with the remainder being through non-UNHCR programs such as Australia’s Special Humanitarian Program or the private sponsorship arrangements in Canada and the United States. At the 2012 ATCR gathering in Geneva, UNHCR’s Resettlement Service acknowledged that more than 18,000 of the 80,000 resettlement places available through its processes in 2011 were not filled, due to delays in security assessments for refugees awaiting resettlement and UNHCR’s limited capacity for referral from some locations.

In its Projected Global Resettlement Needs document for 2013, UNHCR has identified 859,305 refugees in need of resettlement, of whom 180,676 require resettlement in 2013. Unfortunately, even with the increase to the Australian resettlement program in 2012-13, the number of resettlement places offered by governments to UNHCR will only be around 85,000. As Table 2 illustrates, 41.6% of refugees identified as being in need of resettlement are in Africa and 31.4% in the Middle East and South West Asia, with the proportion for the Asia region being 19.0%. The top six countries of origin for refugees identified by UNHCR as being in need of resettlement are Afghanistan, Somalia, Burma, Sudan, Democratic Republic of Congo and Iraq with the top six countries of asylum being Kenya, Pakistan, Malaysia, Iran, Chad and Turkey.

Table 2: UNHCR Global Resettlement Needs 2013, by country of asylum

<table>
<thead>
<tr>
<th>Regions (DIAC definition)</th>
<th>Resettlement needs in 2013</th>
<th>Total resettlement needs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Africa</td>
<td>79,530 (44.0%)</td>
<td>357,893 (41.6%)</td>
</tr>
<tr>
<td>Americas</td>
<td>12,286 (6.8%)</td>
<td>32,020 (3.7%)</td>
</tr>
<tr>
<td>Asia</td>
<td>39,872 (22.1%)</td>
<td>163,685 (19.0%)</td>
</tr>
<tr>
<td>Europe</td>
<td>19,488 (10.8%)</td>
<td>36,103 (4.2%)</td>
</tr>
<tr>
<td>Middle East and South West Asia</td>
<td>29,500 (16.3%)</td>
<td>269,604 (31.4%)</td>
</tr>
<tr>
<td>Total</td>
<td>180,676</td>
<td>859,305</td>
</tr>
</tbody>
</table>

3.6.2. The need to promote resettlement

In RCOA’s community consultations, people spoke of the importance of Australia and UNHCR working together to promote resettlement, with a view to increasing the pool of resettlement countries and encouraging greater sharing of responsibility with the principal host countries. The benefits of refugee resettlement should be actively promoted, including the benefits to societies with ageing populations, given that resettled refugee populations tend to be younger. Among the countries which consultation participants believe could be encouraged to explore resettlement are newly emerging economies, such as the BRIC countries (Brazil, Russia, India and China).

In international meetings on resettlement in 2012, the need to encourage countries to expand their resettlement quotas was much discussed. In 2011, of the 79,784 resettlement arrivals recorded by UNHCR, 92.3% were to just three nations – United States (64.5%), Canada (16.2%) and Australia (11.6%). The 19 other countries to receive resettled refugees during the year collectively welcomed 6,171 new arrivals – just 7.7% of the global total. In May 2012, the International Catholic Migration Commission, UNHCR Europe and the International Organization for Migration launched a

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campaign to increase resettlement to Europe to 20,000 places per year by 2020. In 2011, 11 European nations resettled 5,543 refugees.

In two consultations, it was noted that New Zealand’s resettlement quota of 750 places per year was much smaller than Australia’s, even in per capita terms, and was often not filled. It was suggested that the capacity for greater resettlement should be discussed in bilateral discussions with New Zealand.

3.6.3. Australia’s response in 2011-12 and 2012-13

Of the 13,759 Refugee and Humanitarian visas issued by Australia in 2011-12, 6,004 were part of the offshore Refugee Program, 716 were offshore Special Humanitarian Program and 7,039 were Onshore Protection visas. The offshore Refugee Program included 821 Woman at Risk visas (13.7% of the program) and 43 In-Country Special Humanitarian Program visas.

Table 3: Refugee and Humanitarian visa grants by sub-class, 2007-08 to 2011-12

<table>
<thead>
<tr>
<th>Visa sub-class</th>
<th>2007-08</th>
<th>2008-09</th>
<th>2009-10</th>
<th>2010-11</th>
<th>2011-12</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Offshore Refugee visas</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Refugee (visa sub-class 200)</td>
<td>5,132</td>
<td>5,653</td>
<td>5,173</td>
<td>5,211</td>
<td>5,140</td>
<td>26,309</td>
</tr>
<tr>
<td>In-country Special Humanitarian (201)</td>
<td>42</td>
<td>54</td>
<td>24</td>
<td>26</td>
<td>43</td>
<td>189</td>
</tr>
<tr>
<td>Emergency Rescue (203)</td>
<td>5</td>
<td>4</td>
<td>-</td>
<td>2</td>
<td>0</td>
<td>11</td>
</tr>
<tr>
<td>Woman at Risk (204)</td>
<td>819</td>
<td>788</td>
<td>806</td>
<td>759</td>
<td>821</td>
<td>3,993</td>
</tr>
<tr>
<td>Secondary Movement Relocation - Temp (451)</td>
<td>6</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>6</td>
</tr>
<tr>
<td>Offshore Special Humanitarian visas</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Global Special Humanitarian (202)</td>
<td>4,795</td>
<td>4,511</td>
<td>3,233</td>
<td>2,973</td>
<td>714</td>
<td>16,226</td>
</tr>
<tr>
<td>202 visas granted by ministerial intervention</td>
<td>231</td>
<td>75</td>
<td>11</td>
<td>8</td>
<td>2</td>
<td>327</td>
</tr>
<tr>
<td>Onshore Protection visas</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Onshore Temporary Protection (785)</td>
<td>196</td>
<td>9</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>205</td>
</tr>
<tr>
<td>Resolution of Status (851)</td>
<td>-</td>
<td>39</td>
<td>8</td>
<td>2</td>
<td>1</td>
<td>50</td>
</tr>
<tr>
<td>Onshore Permanent Protection (866)</td>
<td>1,704</td>
<td>2,369</td>
<td>4,515</td>
<td>4,818</td>
<td>7,038</td>
<td>20,444</td>
</tr>
<tr>
<td>Temporary Humanitarian Concern (786)</td>
<td>84</td>
<td>5</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>89</td>
</tr>
<tr>
<td>TOTAL</td>
<td>13,014</td>
<td>13,507</td>
<td>13,770</td>
<td>13,799</td>
<td>13,759</td>
<td>67,849</td>
</tr>
</tbody>
</table>

The Australian resettlement program was more weighted towards the Asian region and the Middle East and South West Asia than UNHCR's global priorities for resettlement for 2012, as Table 4 indicates.

Table 4: Australian resettlement 2011-12 and Global Resettlement Needs 2012 (by country of origin)

<table>
<thead>
<tr>
<th>Region</th>
<th>2011-12 resettlement to Australia</th>
<th>UNHCR resettlement needs for 2012</th>
<th>Total resettlement needs as at 2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>Africa</td>
<td>21.5%</td>
<td>32.9%</td>
<td>40.7%</td>
</tr>
<tr>
<td>Asia</td>
<td>40.9%</td>
<td>28.7%</td>
<td>16.9%</td>
</tr>
<tr>
<td>Middle East and SW Asia</td>
<td>37.1%</td>
<td>29.4%</td>
<td>37.3%</td>
</tr>
<tr>
<td>Europe and Americas</td>
<td>0.5%</td>
<td>4.1%</td>
<td>3.5%</td>
</tr>
<tr>
<td>Various</td>
<td>-</td>
<td>4.9%</td>
<td>1.7%</td>
</tr>
<tr>
<td>Total</td>
<td>6,720</td>
<td>172,196</td>
<td>781,299</td>
</tr>
</tbody>
</table>

The expansion of the Australian Refugee and Humanitarian Program to 20,000 places in 2012-13 is welcome news given the desperate need for increased resettlement. (Section 4 includes more detailed feedback from RCOA’s community consultations.) If the onshore component in 2012-13 is similar in scale to the previous year, the offshore program will be at its largest in nine years and the overall program will be larger than any since 1981-82 and the sixth largest in Australian history.

16 For information about the campaign, see http://www.resettlement.eu/
17 Figures from Department of Immigration and Citizenship (DIAC) annual reports, 2007-08 to 2011-12.
On 28 October 2012, Immigration Minister Chris Bowen announced regional targets for Australia’s 2012-13 resettlement program. During the year, Australia will focus on resettling:

- 3,800 Iraqi refugees from Syria, Turkey, Jordan and Lebanon;
- 2,000 Afghan refugees from countries in the region;
- 2,000 refugees of African nationalities including people from the Democratic Republic of Congo, Ethiopia, South Sudan and Eritrea;
- 1,350 Burmese, Afghans, Iranians and other refugees from Malaysia;
- 1,200 Bhutanese refugees from Nepal;
- 800 Burmese refugees from Thailand;
- 600 Afghan, Iraqi and Iranian refugees from Indonesia;
- 200 Burmese refugees from India; and
- 200 other UNHCR referred caseloads.

This is the first time in recent years that the Australian Government has announced its plans for the resettlement program, a move which received positive feedback in the community consultations as an important step towards greater transparency. This announcement enables some analysis of the Australian Government’s plans. A comparison with the regional priorities outlined by UNHCR in its Global Resettlement Needs document for 2013 shows that the planned 2012-13 Australian program is more heavily weighted towards the Middle East and Asia than UNHCR’s global priorities (see Table 5).

Table 5: Australian resettlement 2012-13 and Global Resettlement Needs 2013 (by country of asylum)

<table>
<thead>
<tr>
<th>Region</th>
<th>Proposed resettlement to Australia 2012-13</th>
<th>UNHCR resettlement needs for 2013</th>
<th>Total resettlement needs as at 2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>Africa</td>
<td>16.5% (up to 2000)</td>
<td>44.0% (79,530)</td>
<td>41.6% (357,893)</td>
</tr>
<tr>
<td>Asia</td>
<td>34.2% (up to 4150)</td>
<td>22.1% (39,872)</td>
<td>19.0% (163,685)</td>
</tr>
<tr>
<td>Middle East and SW Asia</td>
<td>47.7% (up to 5800)</td>
<td>16.3% (29,500)</td>
<td>31.4% (269,604)</td>
</tr>
<tr>
<td>Europe and Americas</td>
<td></td>
<td>17.6% (31,774)</td>
<td>7.9% (68,123)</td>
</tr>
<tr>
<td>Various</td>
<td>1.6% (up to 200)</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Total</td>
<td>up to 12,150</td>
<td>180,676</td>
<td>859,305</td>
</tr>
</tbody>
</table>

Another welcome move by the Australian Government was the announcement in May that it would streamline the health waiver provisions for offshore applicants for refugee and humanitarian visa in response to a recommendation in the Joint Standing Committee on Migration report, Enabling Australia: Inquiry into the Migration Treatment of Disability. The application of the health requirement has been raised by RCOA in previous submissions as a matter which needed attention. We note that, in announcing this step, Mr Bowen said “the change does not alter policies relating to health conditions that are a public health risk, or would require health care or community services that would prejudice the access of Australian residents”. RCOA will be interested to hear what this means in practice for the most vulnerable applicants for refugee visas.

3.7. UNHCR APPLICATION AND RESETTLEMENT PROCESSES

As RCOA’s community consultations included hundreds of people who had lived as refugees and applied for resettlement, there was spirited discussion and moving personal testimony about the many obstacles refugees had to negotiate. A number of consultation participants acknowledged the importance of UNHCR’s role in providing a basic level of protection to refugees and asylum seekers and in facilitating access to status determination and durable solutions, particularly resettlement. At the same time, however, many consultation participants expressed concern about UNHCR operations in some countries.

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3.7.1. Waiting interminably and living with multiple rejection

Several community members felt that UNHCR had not assessed their cases efficiently or thoroughly, did not communicate effectively about the progress of their cases or refused to process their claims at all. While in some cases these shortcomings may have been due to resource constraints or restrictions imposed by host countries, in other cases consultation participants felt UNHCR staff had failed to ensure access to and integrity in processing. The following story from a former Afghan refugee provides an example of this type of case:

In 2006, I went to the UN in Pakistan. The guard there slapped me and ripped up my application so I could not send my application in to the UN. There is no chance that people can go to the UN over there. I have an official document which gives evidence as to what happened on the day I tried to lodge my application. The document says that the UN will not accept anyone or take their application.

Some concerns were also raised about the conduct of UNHCR staff involved in referring people for resettlement. Several members of the Karen community in Werribee, for example, claimed that UNHCR staff members had told Karen refugees living in Thailand that Australia was no longer resettling people out of Thailand. Others spoke of their experiences of living for many years – even up to 20 years – watching other refugees being resettled but being rejected themselves on multiple occasions. A Rohingya man recalls seeing between 5,000 and 7,000 refugees resettled each year from Malaysia but only two or three Rohingya families among them: “When I asked why I was not settled for over six years now, they said ‘Because you’re a Muslim, nobody wants to take you’.”

A Mandaean man who recently arrived in Australia stated:

I was forced to stay and wait in Syria for seven years. I felt that, for UNHCR, there wasn’t a good or thorough evaluation or assessment of cases. Other people whose cases weren’t that urgent stayed for only six months or a year and were accepted. There were no specific criteria and standards for accepting people and sending them to other countries. After seven years, it was like a miracle for me to come to Australia.

3.7.2. A bias towards better educated and better connected

A Karen community member commented that selection for resettlement favours better educated refugees who can put their case more strongly: “What about the other people who can’t read and write but have great needs? They are left behind.” A Somali community member observed that UNHCR’s practice of working through refugee leaders in camps resulted in the family members of leaders being advantaged in selection for resettlement: “I’ve experienced it and I’m one of those (who benefitted from privileged access to resettlement). We used to run the refugee centre in Mombasa. The problem with that is you take the cream of the community and then you leave the destitute suffering there.” Similar concerns were raised by another consultation participant in relation to the resettlement of Karen refugees out of Thailand. He noted that many of the Karen people employed to act as intermediaries between UNHCR and refugee communities are Christians, thus Christian refugees tend to have greater access to resettlement opportunities due to their existing community connections with these UNHCR employees.

3.7.3. Other concerns about resettlement processes

Consultations in three cities included discussion of how widespread corruption in different countries of asylum also negatively influences resettlement processes. One community leader recounted his experience of being asked to meet a family from his language group at the airport, only to discover that those who arrived were from another ethnic group from the same country and could not have been who they claimed there were. A Congolese woman recalled going to the IOM office in Kampala to pick up her visa to Australia, only to be told that it had not arrived. “I was lucky I had the email from the Australian Government. I showed it to them, and then they said: ‘Oh yes, it is here’. If I didn’t have that email, someone could have got my visa and taken my place.” A number of community members from Burma said that it was easy to buy or sell visas in camps on the Thai-Burma border because the visa document was the only proof needed. Others spoke of their
concerns about resettlement processes in Nepal, Pakistan, Kenya, Cairo and Malaysia, recalling claims among refugees of corruption or of the negative role of some locally-engaged staff.

3.7.4. A suggested safeguard against poor interpreting

One consultation participant advocated for a record of resettlement interviews to be kept both in English and in the original language of the applicant. He reported that there had been cases where interpreters had lied (for instance, going out of their way to frame amputees as war criminals), been rude to the interviewee, had not understood the questions properly or had, in a genuine effort to be helpful, embellished the person’s story, which had led to inconsistencies and credibility issues. He suggested that interviews in refugee camps be recorded so that they could be reviewed by another interpreter to ensure accurate interpretation. This would also encourage interpreters to do their job properly.

3.7.5. Complexity of Australian forms

A TAFE teacher in NSW said that she was often asked to assist refugee and humanitarian entrants with filling in Immigration Department forms:

*They come to whoever can help them and we do but it’s so many hours involved in complex forms. A Level 1 or 2 English language student outcome is to write a simple form with name, address, date of birth – not those really complex forms they’re required to fill out by Immigration. You practically need a PhD to do them.*

3.8. POSSIBLE PRIORITIES FOR AUSTRALIA’S RESETTLEMENT PROGRAM

3.8.1 International discussion of resettlement priorities

During 2012, the resettlement of the most vulnerable, responses to protracted refugee situations and the strategic use of resettlement were much discussed at international gatherings hosted by UNHCR to discuss refugee needs. The UNHCR NGO Consultations in Geneva in July included a discussion about the most marginalised groups of people within refugee populations, noting that these groups included people who are HIV positive, people with a disability, ethnic minorities within larger refugee groups including indigenous groups, and people who are lesbian, gay, bisexual, transgender or intersex (LGBTI).

At the 2012 ATCR, delegates discussed a number of priority situations for resettlement including refugees from the Democratic Republic of the Congo, refugees from Somalia, Afghan refugees in Iran and Pakistan, Iraqi refugees in the Middle East and refugees from Colombia. In the joint NGO statement to the ATCR, concerns were raised about specific refugee populations in need of resettlement and international assistance, including: refugees from the Democratic Republic of the Congo, Somalia, and Colombia who are living in protracted situations; refugees fleeing the current violence in Syria; Eritreans in Eastern Sudan; Darfuri refugees in the Central African Republic; LGBTI refugees living in Kenya and Uganda; refugees in South Africa; Ethiopians and Eritreans in Yemen; Eritreans in Egypt; Chin refugees in India; Tibetans in Nepal; and Rohingya refugees in Bangladesh.

In inviting comment on the Australian Government’s 2013-14 Refugee and Humanitarian Program, RCOA sought views on which groups of refugees should be nominated as being in priority need of resettlement. A wide range of views was received, including comments about categories of refugees in priority need and specific ethnic groups which are particularly vulnerable. Many of these views echoed priorities discussed at the international level.

3.8.2 General resettlement priorities

*Refugees in protracted situations*

The situation of refugees who remain in protracted situations was identified consistently by consultation participants as a high priority for resettlement. Community members spoke first-hand about the deprivations, lack of security and harsh conditions faced by people who have spent long
periods of time in camps. People who have spent 10 to 20 years in refugee camps were cited as priority cases. The consequences for refugees who remain in protracted situations was described in tragic detail by a settlement service provider in Campbelltown who reported receiving documents for refugees preparing to resettle in Australia after spending 20 years in camps. They had passed away just before they were due to leave for Australia. Possible approaches the Australian Government could adopt to determine priority cases included focusing on protracted refugee situations rather than resettlement by region and the establishment of a panel to investigate long-term humanitarian resettlement cases.

**Women at risk**
A number of participants believed there was scope for increasing the Woman at Risk visa program to up to 20 per cent of the overall Refugee and Humanitarian intake. Consultations heard accounts of women who could not protect themselves in refugee camps and in urban situations. Women with no family to provide safety were at risk of being targeted for abuse and exploitation. Some participants believed it was incumbent on the international community to assist women at risk, particularly if they are living with their children in unsafe environments. It was also suggested that DIAC work closely with UNHCR to identify women with no family and include them under the Woman at Risk visa category.

**Unaccompanied minors**
Participants noted that there were many children born into camps who were stateless. Minors and orphans were considered a high priority for resettlement with some participants advocating the creation of specific quota for unaccompanied minors, similar to the existing Woman at Risk program. Concerns were also expressed for children living in refugee camps, with one participant pointing out their development and physical and mental health was impaired by inadequate diet, limited medical care, restricted education and disconnection from life outside a UNHCR camp.

**Other vulnerable refugees**
The needs of other vulnerable refugees were also raised during consultations with the elderly, people with a disability and torture and trauma survivors identified as being in priority need of resettlement.

**Family reunion**
Many participants believed family reunion should be given the highest priority when planning the resettlement program. It was summed up by one service provider in Newcastle who said reuniting displaced family members with their loved ones in Australia was a great care model and helped build a sense of community. (See 4.5 for a detailed discussion of family reunion.)

**Refugees without a voice in Australia**
The emergence of new refugee crises, particularly in the Middle East, prompted concerns from community members about forgotten conflicts that remained unresolved, especially in Africa. The inability of Australian Government representatives to access areas where they could interview refugees was also raised a significant obstacle. One community member in Hobart said it was difficult for officials to reach certain areas in the Democratic Republic of Congo, denying vulnerable people an opportunity to have their claims for protection heard. While most participants believed family reunion should be a high priority for resettlement, one participant who made a written submission to RCOA stressed that priority should be accorded to those most in need. She argued that many highly vulnerable refugees have no relatives overseas to sponsor their applications for resettlement or advocate on their behalf, and thus lack the contacts, remittances and other supports to assist in building a case.

**‘Out of region’ refugee caseloads**
A number of organisations raised concerns with RCOA about the Australian Government’s approach to resettling refugees who are regarded as “out of region” caseloads. It was noted that Australia does not include refugees it regards as being “out of region” in its resettlement programs from many countries and in some other countries chooses some but not other “out of region” groups. In Indonesia, for instance, the leading countries of origin for registered refugees as at 31
August 2012 were Afghanistan (574), Sri Lanka (228), Burma (132), Iraq (118), Somalia (106) and Iran (79). However, in Australia’s resettlement plans for 2012-13, priority is being given to Afghans, Iraqis and Iranians and not to the other three main refugee populations. In a world where many refugees feel they have few protection options other than to move further afield to seek safety, being “out of region” (or being from the wrong “out of region” country) should not be the basis on which refugees’ access to resettlement is limited. Priority should be based on need and smaller populations of refugees some distance from their countries of origin are often among the most vulnerable refugees in many countries of asylum.

3.8.3 Resettlement priorities in Asia

Rohingya
In RCOA’s consultations, Rohingya were most commonly mentioned as the group of refugees in need of priority resettlement, with consultation participants from a wide range of ethnic backgrounds and refugee services highlighting concerns about the treatment of Rohingya people. People spoke of the intractable nature of their statelessness and the escalating violence in northern Arakan state in Burma during 2012 which led to growing numbers of Rohingya attempting to flee the country. It was noted that very few Rohingya refugees were resettled, despite the dire circumstances faced by Rohingya people in their country of birth and in many countries of asylum, particularly Bangladesh. The main obstacle was the attitude of the Government of Bangladesh, which refused to allow Rohingya people to be resettled. However, Rohingya refugees can also be found in significant numbers in Malaysia, Thailand, India, Pakistan, Dubai and Saudi Arabia, many of whom need resettlement because of the appalling treatment they receive. One Rohingya community member reported being told by a UNHCR staff member in South East Asia that UNHCR referred Rohingya refugees for resettlement but receiving countries rejected the referrals because of their view that Rohingya have high settlement needs. He and others contested this perception, pointing to the highly successful settlement of Rohingya refugees in Brisbane. The appalling treatment of Rohingya in Bangladesh is a widespread concern, with consultation participants noting the shocking living conditions in the official and unofficial camps, the denial of refugee registration for the vast majority of Rohingya who have fled to Bangladesh and the many instances in 2012 of Rohingya people being pushed back into Burma. One Rohingya man spoke of his own experiences in Bangladesh, recalling that he was not even allowed to get an education. He was caught twice by the police while trying to do high school exams, being caned on the second occasion.

Burmeses refugees in Thailand
Karen and Karenni community members raised a number of concerns to press for greater resettlement of refugees who had fled over the border from Burma to Thailand. The community nominated refugees on the Thai-Burma border as a priority for resettlement, particularly given that their limited financial means made resettlement their only option. While the Australian Government had set aside 800 visas for Burmese refugees in Thailand in 2012-13, many community members described the allocation as inadequate given this group had not been able to register with UNHCR since 2006-07. One participant said the Karen refugees in Australia were experiencing rejection rates of 80 to 90 per cent for SHP applications which was having a negative effect on their settlement experience. There were also calls for a fairer balance in the resettlement of Christian and Buddhist Karen refugees to correct an unintended anomaly. While the majority of Karen refugees were Buddhist, it was felt by some community members that a greater proportion of Christian refugees were being resettled, primarily as a result of advocacy by churches and contact with western education. Participants also called on the Australian Government to pressure the Government of Thailand to allow Burmese refugees to register with UNHCR and to stop the repatriation of refugees to Burma where concerns about security and safety continue.

Bhutanese
Consultation participants advocated on behalf of Bhutanese refugees who remain in Bhutan without passports and those unregistered in other parts of the world. At RCOA’s Darwin consultations, one participant noted that Bhutanese people had been living in refugee camps in Nepal for 15 to 20 years. The existence of Bhutanese people living overseas and not registered as
refugees and the situation of close relatives of human rights and political activists were also raised as priority cases for resettlement.

**African refugees in Asia**
Further to the earlier comments about “out of region” refugees, the situation of African refugees in many Asian countries is particularly difficult, as is regularly highlighted by RCOA’s NGO partners in Asia. In countries such as India, Thailand, Malaysia and Indonesia, refugees from Somalia and other African nations make up a small and vulnerable group which struggles to survive in an environment with few external links or methods of support. As part of an even more visible minority, African refugees in Asia often face even greater levels of racism from local populations. Refugees in this situation would be much better supported through resettlement to Australia and other countries where there are more significant communities of people from their country of origin.

**Refugees at high risk of detention**
RCOA’s Asian NGO partners also regularly raise concerns about refugees in South-East Asia who are at high risk of detention, arguing that Australia should give them priority access to swift resettlement.

### 3.8.4 Resettlement priorities in Middle East and South West Asia

**Hazaras**
The widely expected deterioration in conditions in Afghanistan after the withdrawal of foreign troops in 2014 and the rapidly worsening situation in northern and western Pakistan promoted many consultation participants to nominate Hazara refugees as a group in need of priority resettlement. People spoke of killings and kidnappings of Hazara people each day inside Afghanistan, with many incidents getting no media coverage, while others spoke of the growing fears for unarmed members of an easily identifiable religious and ethnic minority in the face of the expected renewed influence of Taliban extremists. It was felt that Australia had a particular responsibility to help in light of its military engagement in Afghanistan and should give similar priority to resettling those fleeing the conflict to that taken in the aftermath of its military engagement in Vietnam. Some Hazara community members spoke of the need to give priority to family members trying to get out of Afghanistan because of the extent of danger they faced and to give second priority to Hazara refugees in Pakistan because of the rapid increase in Hazaras being killed there. Hazara women (many with children) whose husbands have been killed, detained or separated were identified as particularly at risk because of security and livelihood concerns.

**Mandaеans**
A consultation in Liverpool NSW, a centre of Mandaean settlement in Australia, highlighted the impact of the civil war in Syria on the safety of refugees who had fled Iraq, with a community leader who had arrived in Australia only 50 days earlier giving an eyewitness account of community members being killed and threatened in a country which was previously a place of relative safety. Others spoke of the fate of relatives in Iraq: “One of my family members, a young man, was tortured and killed. Even the court decided not to kill his killers because he wasn’t a Muslim. The killers’ family threatened my family, that they should drop all of the accusations otherwise all of my family would be killed.” Mandaean community members who have made numerous unsuccessful attempts to get relatives to Australia through the SHP are deeply frustrated and anxious.

**Other Iraqis in Syria**
Consultation participants observed that the conditions for other Iraqi refugees in Syria – including members of other religious minorities – are similarly difficult. Many families have faced or are facing the difficult choice between remaining in danger in Syria and returning to the circumstances they have fled in Iraq. The case for resettlement for refugees who are at great risk in the country where they have sought asylum is compelling.
3.8.5 Resettlement priorities in Africa

Need for resettlement from Africa
At every consultation, members of African communities urged the Australian Government not to forget the pressing needs of refugees displaced in a number of new, ongoing and re-emerging conflicts throughout the African continent. Participants reminded the Australian Government of protracted refugee situations in Africa, advocating for a strong resettlement focus on people who remain in refugee camps after fleeing long-standing conflicts as well as those people displaced by the resumption of hostilities in South Sudan, new humanitarian crises in Cote d’Ivoire and Mali and ongoing conflict in Congo.

Somalis
Refugees from Somalia were identified as a priority based on their protection needs, the scale of the Somali refugee population and the fact that resettlement countries are slow to resettle them. As at December 2011, 1.077 million Somalis were identified by UNHCR as refugees, with 202,430 of them identified as being in need of resettlement in coming years. In 2011, UNHCR submitted the cases of 15,719 Somali refugees for resettlement and, although 84.1% of these cases were accepted, only 4,636 Somali refugees were resettled in 2011. The situation of Somali Bantu refugees in Kenya was also raised, with a consultation in Adelaide hearing reports of people spending 30 years in camps.

Eritreans in Sudan
In Brisbane, consultation participants spoke of Eritreans suffering in Sudan where they lacked security and support. The Eritrean community reported rejection rates of about 80 per cent for SHP applications.

Ethiopians in Kenya
The plight of Ethiopians who have spent the last 10 years of their lives in the Kakuma camp in Kenya was highlighted.

Sudan and South Sudan
Concerns were expressed that Australian foreign policy was largely ignoring crises in Africa, such as the ethnic cleansing underway in the Nuba Mountains. Refugees fleeing conflict in the Nuba Mountains were in urgent need of basic humanitarian assistance and food. Community members in Brisbane remarked that 2005 was the last time they saw refugees from the Nuba Mountains region being resettled to Australia. While South Sudan had recently achieved independence, some consultation participants warned there was no guarantee of peace between warring parties holding.

Refugees in Tanzania
Concerns were expressed about the lack of resettlement options for Burundian refugees in Tanzania and conditions for refugees living in Tanzania

Rwanda
The implementation of a cessation clause for Rwandan refugees was criticised at a consultation in Logan with claims some refugees had been repatriated to persecution in Rwanda.

English-speaking minority from Cameroon
At one consultation, a pastor raised concerns about members of the English-speaking minority in Cameroon, saying they face ongoing persecution for speaking their language and are discriminated against in workplaces and schools where French is used. In 1999, the English-speaking minority staged protests and called for the formation of a Southern Cameroon republic and as a result were forced to flee to Nigeria. The English-speaking Cameroonians are not being resettled and in some cases are unable to obtain UNHCR recognition. To secure recognition by UNHCR, many people are travelling for up to three days to reach Algeria or Morocco where they are at risk of serious human rights abuses or being pushed out into the desert and have no chance of being resettled.
Liberians in Ghana
The consultations raised concerns about Liberians who remain in refugee camps in Ghana. Unable to return and without any access to resettlement, their plight was described as being similar to those facing asylum seekers who have no option but to take a boat to find safety. However, Liberians in Ghana lacked the finances to find safety further afield.

Togolese
Participants reported that it was still unsafe for Togolese refugees to return following civil conflict.

Egyptians
One consultation raised the possibility of women fleeing the new regime in Egypt and becoming a possible future priority for resettlement.

3.9 PRINCIPLES FOR AUSTRALIA’S RESPONSE

In last year’s submission, we drew together the feedback on resettlement priorities into a set of principles for Australia’s response. Those principles remain relevant and, we believe, are useful in reflecting on planning for the 2013-14 Refugee and Humanitarian Program:

1. The need for resettlement to be made widely available as a durable solution. In last year’s submission, we expressed support for the goal set by Minister Bowen at the 2011 Australian Labor Party conference to expand the Refugee and Humanitarian Program to 20,000 places a year, asking for a timeframe for implementing this goal. Now that this increase is already in place, and in view of the pressing need for more resettlement places globally, we encourage the Government to consider plans for a further expansion of the program (as recommended by the Expert Panel on Asylum Seekers, see Section 4.1), to review the numerical link between the offshore and onshore program (see Section 4.2) and advocate with other nations for an expansion of their resettlement programs.

2. A focus on resettling the most vulnerable. As stated last year, priority in resettlement should be given to the most vulnerable of refugees, including those who vulnerability is heightened by disability, risk of sexual and gender-based violence, separation from adult support (in the case of unaccompanied minors), risk of detention and isolation from community support (in the case of refugees well outside their region of origin).

3. An emphasis on family unity. Section 4.5 explores the question of family reunion in some detail, emphasising the importance of providing refugee and humanitarian entrants with opportunities to bring their families back together.

4. The strategic use of resettlement to promote broader refugee protection. As noted in Section 5, resettlement can and should be used in situations where it can unlock protection options for much larger groups of refugees than those being resettled. In the planning of its resettlement program, the Australian Government should develop a strategy for how to maximise the protection dividends for its major resettlement efforts, working with other resettlement nations (particularly the United States and Canada) to encourage the nations from which refugees are being resettled to improve conditions for refugees who remain in their territory. Priority should be given to encouraging states to provide refugees with some form of legal status (even temporary), the right to work and freedom from detention. Particular consideration should be given to how protection can be improved in the three countries from which the largest numbers of refugees have been resettled in recent years – Thailand (from which 69,164 refugees were resettled under UNHCR auspices between 2007 and 2011), Nepal (58,552) and Malaysia (35,296).

5. The need to balance resettlement needs in different regions. While Australian resettlement can be targeted to different regions to achieve particular goals in refugee protection, it is important that the program does not forget major refugee resettlement needs. While RCOA accepts the need for targeted resettlement from Asia and the Middle East and South West Asia regions, we are concerned that the pressing need for resettlement from Africa is being given
too little emphasis in Australia’s 2012-13 program. As noted earlier, UNHCR estimates that more than 40% of refugees in priority need of resettlement are in the Africa region but the African share of the 2012-13 Australian program is likely to be around 16.5%. A larger African resettlement is essential to addressing the pressing need of refugees in seriously protracted situations.

6. **A coherent overarching government strategy for refugee protection.** RCOA is pleased that the Australian Agency for International Development (AusAID) recently published a summary of the programs it supports to assist refugees and displaced people.\(^20\) We have been asking the Government for such a summary for the past five years. We believe that this information should be incorporated into an articulated strategy of what the Australian Government is doing to promote the protection of refugees, through its Refugee and Humanitarian Program, its official aid and development, its involvement in multilateral forums and its diplomatic action on human rights in refugees’ countries of origin and asylum.

3.10 **RECOMMENDATIONS**

**Recommendation 1**  
RCOA recommends that, in view of the pressing need for resettlement from Africa, the 2013-14 regional target for resettlement from Africa be set at no lower than 25% of the offshore program.

**Recommendation 2**  
RCOA recommends that the Australian Government review its approach to resettling refugees who are unaccompanied minors, at risk of detention or classified as being “out of region”, giving careful consideration to the vulnerability of refugees most isolated in countries of asylum.

**Recommendation 3**  
RCOA recommends that the Australian Government work with the United States, Canada and other nations involved in the Working Group on Resettlement to explore how the host nations which have benefited most from resettlement (particularly Thailand, Nepal and Malaysia) can be encouraged to improve protection standards for refugees who remain in their territory.

**Recommendation 4**  
RCOA recommends that the Australian Government develop, publish and implement a framework for Australia’s refugee resettlement program based on priority resettlement to the most vulnerable refugees, the promotion of family unity, the strategic use of resettlement and the consideration of global resettlement needs in the development of regional allocations.

4. AUSTRALIA’S REFUGEE AND HUMANITARIAN PROGRAM

4.1. EXPANSION OF RESETTLEMENT INTAKE

A core recommendation of the Expert Panel on Asylum Seekers was the expansion of Australia’s Refugee and Humanitarian Program from 13,750 places to 20,000 places annually. This recommendation was adopted by the Australian Government on 23 August 2012, effective this financial year. The Panel also recommended that consideration be given to further increasing the program to 27,000 places within five years.

The increase in the intake was overwhelmingly endorsed by consultation participants who observed that Australia had the capacity to support a larger number of refugees and humanitarian entrants, in terms of having quality infrastructure and services as well as an excellent track record in settling humanitarian arrivals. Some participants encouraged the Government to further expand the program, provided any increase was matched with careful planning and additional resources for settlement services.

While the increase was welcomed, many service providers raised concerns about the ability of settlement services to keep pace with increased numbers, warning that under-resourcing would make it more difficult to deliver successful settlement outcomes. Increased resourcing for mainstream services, delivered by Federal and State agencies involved in supporting refugees, was also identified as a priority to support an expanded Refugee and Humanitarian Program. Housing affordability was raised as a significant challenge in delivering services to increased numbers of humanitarian arrivals. It was also noted that, if the recent trend of proportionally high numbers of young people arriving through the humanitarian program continued, targeted youth settlement services would need to be strengthened.

In consultations held outside metropolitan cities, participants expressed enthusiasm for increased regional settlement, with service providers and community members citing successful settlement outcomes, lower cost of living relative to cities, quality infrastructure and greater access to services as justification for regional communities receiving an increased share of the 20,000 humanitarian places.

4.2. COMPOSITION BY VISA SUB-CLASS

In line with the Panel’s recommendations, 12,000 places within the expanded intake will be allocated for the Refugee Program (visa sub-classes 200, 201, 203 and 204), with the remaining 8,000 places divided between the Onshore Protection (sub-class 866) and Special Humanitarian Program (or SHP, sub-class 202) visa grants. The numerical link between the Onshore Protection program and SHP remains for the time being; however, the Panel recommended that this linking policy be reviewed within two years.

Consultation participants asserted that, given demand for both Onshore Protection and the SHP was high, both programs should be increased. One participant remarked that the 8,000 places shared between the Onshore Protection and Special Humanitarian Program was insufficient while others believed the Panel should have allocated 12,000 to the SHP and Onshore Protection program with the balance dedicated to the Refugee Program. A service provider in Logan warned that increasing the number of refugees referred by UNHCR to fill the 12,000 places would result in at least twice as many applications for family reunion, and called for more flexibility in the allocation of places within the Refugee and Humanitarian Program.

As in previous consultations, there was strong opposition to the linking of the Onshore Protection program and SHP, with participants reporting continued tension between refugee communities resulting from the policy. One participant stated the linking of the programs also perpetuated the “queue jumper” myth, in that it creates a perception that asylum seekers recognised as refugees “take” places from refugees waiting for resettlement overseas. Some members of African
communities in Australia expressed concerns that the increasing number of Onshore Protection visas granted to asylum seekers had not only diminished access to the SHP but had added to a perception that the offshore program had been forgotten. Consultation participants advocated for the Government to bring forward the reconsideration of the link between the onshore and offshore program, reviewing the link prior to the planning of the 2013-14 program.

Discussion at one consultation focused on approaches to resettling people found to be refugees after being sent by Australia to offshore processing centres. It was argued that the resettlement of refugees who directly sought Australia’s protection should be incorporated into the Onshore Protection program, rather than being deducted from the Refugee Program, and that care should be taken to ensure that any resettlement from Australia’s offshore processing centre to other countries did not contribute to the further reduction of scarce resettlement places, which is already fewer than 100,000 places globally each year:

There are 147 states party to the Refugee Convention, all of whom have committed under international law to receive and consider asylum applications from people who reach their borders … Where asylum is a broadly accepted responsibility of a wide range of states, resettlement has such a small, finite capacity that it must be preserved for the most acute cases as they arise. From that point of view, any measure which diverts asylum cases into that small resettlement capacity is problematic.

4.3. REGIONAL COMPOSITION

The Panel asserted that the increased resettlement program should maintain the current allocation targeting need (as identified by UNHCR) for resettlement from the Africa region, with additional places allocated to the Middle East and Asia regions. The Panel suggested that, while providing a program of up to 3,800 resettlement places from regional countries in South-East Asia, there should also be a deliberate strategy to target the majority of additional places as close to countries of origin as possible, which would involve a significant increase in places for the Middle East region. Additionally, the Panel recommended that some places should be made available for other caseloads such as Sri Lankans, Iranians and Iraqis.

In October 2012, the Government released details of the regional composition of the 12,000 offshore Refugee Program, which largely reflects the Panel’s recommendations. The majority of the 12,000 places have been allocated to refugees from Iraq, Afghanistan and Burma, as well as other caseloads in Asia (such as Bhutanese and Iranians). Resettlement from African countries has decreased significantly as a proportion of the overall program, with only 2,000 places specifically allocated to refugees of African origin.

Much of the discussion about regional composition in this year’s consultations took place before the Government’s announcement of regional targets. There was considerable debate about whether Australia should maintain a global approach to resettlement and encourage resettlement states to do the same, or to focus on targeted resettlement out of Asia as part of a strategy to bolster protection standards across the region. In part due to perceptions that conflicts in Africa have been “forgotten” and resettlement from Asia has increased at the expense of Africa, many consultation participants endorsed UNHCR’s “Projected Global Resettlement Needs 2013”, which emphasises the importance of continued resettlement from all three regions (Africa, Asia and the Middle East). On the other hand, an increased focus on Asia and the Middle East was also welcomed given that those regions were the source of asylum flows to Australia. Such an approach, it was argued, would have a strategic advantage of furthering Australia’s interests in the region and would be justified if it led to enhanced regional cooperation on refugee protection.

Members of the Burmese community argued that the 800 resettlement places allocated to Burmese refugees in Thailand was insufficient given the high proportion of unsuccessful SHP applications and the fact that refugees living on the Thai-Burma border had not been able to register with UNHCR since 2006-07. The planned resettlement of 600 people from Indonesia was also described as insufficient, while others expressed concern that the regional breakdown made no reference to Sri Lanka. Participants also warned that specific regional targets could be
problematic in light of changing priorities, underlining the need for flexibility in responding to international crises as they arise. One participant proposed the inclusion of an emergency response mechanism that would allow for a small number of extra places to be added, acting as an emergency fluctuation or surge number.

4.4. PRIVATE/COMMUNITY SPONSORSHIP PILOT

On 8 May 2012, the Minister for Immigration and Citizenship announced that the Government would be seeking the community’s views on a private sponsorship pilot program as a way to improve Australia’s Humanitarian Program. Submissions asking for community input on questions such as the feasibility of a private/community refugee sponsorship program, who should be eligible to sponsor, who should be sponsored, and what the requirements of a sponsorship arrangement would be, closed on 27 July. The concept of private sponsorship was also endorsed by the Expert Panel, which suggested that the development of a sponsorship model could reduce the costs of a place under the Humanitarian Program “by up to one-third”, with the savings used to offset the costs of the expanded program. An announcement of the model for the 2013 sponsorship pilot was announced by the Minister on 15 December 2012, after the community consultation process was completed. As a result, the community feedback was based on the very limited information available at the time of the consultations (in October and November 2012).

The idea of a private sponsorship pilot was received positively by a number of participants, who saw the potential of such a program to open alternative avenues for resettlement and provide opportunities for the community to become more closely involved in the resettlement process. Others, however, highlighted a lack of information and clarity about the Government’s plans regarding private sponsorship and several participants stated that they were not in a position to offer constructive feedback due to this lack of information. Some were sceptical about the pilot, expressing concerns that it was being used by the Government as a means of saving money and deflecting its obligations towards refugees. In relation to this point, several participants argued that resettlement places allocated to private sponsorship should be additional to, not deducted from, Australia’s annual resettlement intake of 20,000 places.

A number of questions were raised in relation to the selection process for those resettled under a private sponsorship program. Some felt that it was not the role of community organisations to identify people in need of resettlement and suggested that the selection process should be based on objective criteria, such as the provisions of the Refugee Convention. Many participants expressed concern that some groups are likely to be excluded from the program. Representatives from some new and emerging communities, for example, noted that their communities did not have the financial capacity to consider private sponsorship as an option. Others argued that private sponsorship is likely to favour larger and more established communities, with the result that smaller communities with less financial capacity would “miss out”.

Some participants noted that highly vulnerable people who did not have links with family members, communities or organisations in Australia are also likely to be excluded from private sponsorship, even though they may be in greater need of resettlement than people who did have these connections. In the words of a service provider in Melbourne:

*This is concerning because it puts the emphasis on the applicant or the relative of the applicant being able to find a sponsor that’s able to come up with the money… I find this very concerning because in some ways it means that if you can find somebody with sufficient financial means then you get a visa.*

Another participant in the same consultation argued that private sponsorship undermined the Government’s stated principle that resettlement should target those in greatest need, rather than those who have the financial means to seek asylum in Australia: “It’s the opposite of everything they’ve been saying about why they’re so against people getting on boats, which is rewarding

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21 RCOA’s submission can be viewed at: [www.refugeecouncil.org.au/r/sub/1207-Sponsorship.pdf](http://www.refugeecouncil.org.au/r/sub/1207-Sponsorship.pdf)
those who have money.” A service provider in Brisbane expressed concerns that private sponsorship could be “misused” by people who did not have genuine protection concerns.

One participant also noted that private sponsorship may exclude vulnerable people in Australia seeking to use the program as an alternative avenue to reunite with family members:

The most vulnerable who really need their families here are going to miss out... They’re not going to be the ones who have the ability to find a local church group or someone who’s going to put in the private sponsorship for them, and they also can’t access the family migration program because they’re not working. So those people are going to miss out in every way.

A number of concerns were raised in relation to the selection process for and responsibilities of sponsors. Several participants emphasised the need for careful selection of sponsoring organisations to ensure that they are able to meet the needs of the people resettled. Some noted that private sponsorship was likely to impose a significant financial burden on sponsors, with which some community organisations may struggle to cope. Others expressed fears that private sponsorship could lead to exploitation – a participant in Coffs Harbour, for example, suggested that the program could be abused by bodies seeking “cheap labour” – and called for oversight and monitoring of the program to guard against this eventuality. Still others questioned the capacity of sponsoring organisations to address complex settlement issues such as mental health, domestic violence and the unique needs of unaccompanied minors.

Some expressed fears that private sponsorship could lead to a “two-tiered system” of resettlement, where people who were privately sponsored for resettlement did not have access to adequate services and support despite having the same needs as those resettled through government programs. A number of participants suggested that privately sponsored refugees should be eligible for services and support in Australia. Many emphasised the importance of having a “safety net” in place for privately sponsored refugees, lest their relationship with the sponsor break down or the sponsor fail to provide adequate support.

Some consultations participants put forward strategies to enhance the operation of private sponsorship. These participants suggested that the Government should consider:

- Using private sponsorship as a means to facilitate resettlement of refugees subject to offshore processing in Nauru and Papua New Guinea.
- Providing tax concessions to people and organisations that are prepared to sponsor refugees to resettle under the private program.
- Offering HECS-style loans\(^{22}\) to sponsors who are seeking to reunite with family members and who meet certain vulnerability criteria, which would become payable only once the sponsor had secured stable employment.

Based on the feedback from the consultation process and from discussions with potential sponsoring organisations, RCOA contacted DIAC and met the Minister prior to the announcement of the pilot to emphasise two points:

- That any charges associated with sponsorship should not be beyond a level for which community organisations could reasonably raise funds.
- That the costs associated with sponsorship should be structured to provide an incentive for sponsors to work together to assist newly-arrived refugees towards financial self-sufficiency as quickly as possible, thereby reducing the cost of resettlement to government.

When the Minister announced that, in the pilot phase, the visa application charges would be $20,000 to $30,000 for a family and no option for incentives was included, RCOA expressed disappointment, noting that the sponsorship pilot will not enjoy the same level of community support as a result.\(^{23}\) While we recognise that the pilot phase is designed to explore what is

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\(^{22}\) HECS is the Higher Education Contribution Scheme (see \url{http://studyassist.gov.au/sites/StudyAssist/})

\(^{23}\) RCOA (2012). Pilot sponsorship welcome but needs further work [media release]. Issued 15 December, \url{http://refugeecouncil.org.au/n/mr/121215_Sponsor.pdf}
possible, the scale of the charges and the lack of incentives for groups which help the government achieve its goal of resettling more refugees for the same cost will make it difficult for interested groups to sponsor any more than a small number of refugees as a result. Despite these hurdles, some groups will, no doubt, do everything they can to raise funds in the hope of getting some people resettled from the desperate circumstances in which they now live. RCOA will monitor the pilot closely during 2013, offering further community feedback on how the sponsorship model can be improved for any future sponsorship program.

4.5. FAMILY REUNION

4.5.1. Overview of changes

Since its inception, the Special Humanitarian Program (SHP) has been the main pathway through which refugee and humanitarian entrants have been able to reunite with both immediate and extended family members separated by displacement and resettlement. As outlined in the Expert Panel's report, there is currently a large backlog of applications in the SHP which would not be cleared for many years under existing arrangements. In 2011-12, the SHP provided for only 714 places to accommodate the more than 20,000 applications that were awaiting visa grants. The actual number of SHP applications submitted and rejected over the past few years is many times this backlog. Moreover, the provision for SHP places in 2012-13 is likely to be even less than the 714 places granted in 2011-12 due to an increase in onshore Protection Visa applications and grants and the ongoing numerical link between the SHP and the onshore stream of the Humanitarian Program.

The Panel’s recommendations for addressing this backlog and the lack of family reunion options for humanitarian entrants have been to:

- Remove policy concessions for immediate (split) family applicants in order to reduce size of the SHP backlog;
- Reduce future eligibility to SHP for refugees who arrive by boat; and
- Allocate 4,000 additional places in the family stream of the Migration Program specifically for humanitarian entrants.

It is also assumed that a reduction in the number of people seeking Australia's protection and being granted onshore Protection Visas achieved through the entire package of recommendations would result in an increase in the number of SHP places – and hence humanitarian family reunion options – in the longer term.

The Panel recommendations include some that significantly impact eligibility to the SHP. The first of these recommendations is to remove family reunion concessions that presume that immediate family applicants meet the “compelling reasons” criteria for resettlement under the SHP. This means that all proposers who arrived by boat, including those whose applications have already been submitted and are in the backlog (i.e. this is a retrospective policy change), will be reassessed and have to meet all criteria under the SHP unless the proposer was under the age of 18 at the time the SHP application was lodged. The Panel suggested that applicants who would be unsuccessful under the SHP without the concession can seek family reunion under the existing provisions of the family stream of the Migration Program. The second significant change with regard to the SHP is that any “irregular maritime arrival” who is granted an onshore Protection Visa and arrived after 13 August 2012 will be ineligible to propose family members through the SHP. Again, the consideration is that these refugees would be able to instead propose family members through the family stream of the Migration Program.

In recognition of the reduced eligibility to the SHP for some humanitarian entrants, the Panel recommended that 4,000 additional places per annum be provided to the family stream of the Migration Program. The Panel recommended that these 4,000 additional places be specifically allocated to humanitarian visa holders, minimising any impact on non-humanitarian visa holder sponsors in the family stream. No concessions in terms of application and eligibility requirements
for family stream visas were proposed for humanitarian visa holders.

On 22 September, Minister Bowen announced the Government’s implementation of the Expert Panel recommendations with regards to family reunion, stating that SHP applications made by family of adult boat arrivals who arrived prior to 13 August will “be given lowest processing priority” and that “these changes will ensure highest priority is given to the applications of family of people who were granted refugee and humanitarian visas overseas and migrated to Australia in a safer and orderly manner.”24 The Minister confirmed that those who arrived by boat and are granted onshore Protection Visas after 13 August will no longer be eligible to apply for family reunion under the SHP. In accordance with the Panel’s recommendation, applicants proposed by unaccompanied minor refugees who arrived before 13 August will still be eligible for SHP visas on the strength of their family relationship alone.

4.5.2. Family reunion and Australia’s Refugee and Humanitarian Program

The need for enhanced access to family reunion has been one of the most consistently-raised concerns in RCOA’s community consultations over many years, and was again highlighted this year as a primary issue for refugee and humanitarian entrants and the services working with them. Indeed, the volume of feedback on family reunion issues exceeded that of any other of this year’s consultation themes.

Many consultation participants spoke about the increasing difficulties faced by refugee families separated by conflict, displacement and resettlement and the further restriction of the already-limited pathways to family reunion. Many people saw this as in fundamental conflict with Australia’s obligations as a signatory to a number of international conventions which emphasise the importance of family unity, and indeed to the foundations on which Australia has been built which place family as a central building block of society. While humanitarian family reunion has not been clearly articulated as a right or principle within Australia’s Refugee and Humanitarian Program, the Expert Panel recommendations and subsequent policy changes have effectively meant closing off some of the limited pathways that did exist and creating the potential for indefinite separation of refugees with their immediate families. As one consultation participant in Brisbane put it:

The attack on family reunion offends me to my core. I want the Refugee Council submission to make very clear that the measures they are now putting in place are anti-family… Eleven years ago, 146 children drowned on the SIEV X and that was precisely because the fathers, the providers, the protectors of those families, were not allowed to sponsor, not able to be reunited with their family in a responsible way. We’re doing it all again and it creates a potential tragedy of enormous scale… Limiting the places for the reunion of fathers with their wives and their children is disgusting. I cannot accept that as an Australian citizen. That is against everything that our society says it stands for.

Restricting the already-limited opportunities for family reunion to those who have sought and found to be owed Australia’s protection undermines the protection of refugees more broadly and does not recognise the link between the irregular movement of people and broader protection needs. As many consultation participants identified, asylum seekers do not get on boats and seek protection only to save themselves. Most do so as part of a family unit and as part of a family survival strategy which includes sending a single family member – usually the strongest male – on a perilous, long and costly journey. Subsequently denying family reunion effectively denies the right of the most vulnerable to find safety (i.e. those women and children who are left behind with no or limited access to protection). As one Hazara community member in Geelong described: “If my family is being destroyed in Pakistan because the situation over there is not safe, there is no point me living here with a safe life.” An Iraqi community member in Shepparton stated:

So we need to go back to our families. It is much better. And we will die there…. Because we’ve got our children in Iraq and they have no income, and I am here and only have Centrelink income because I can’t get a job. So Australia is trying to hurt us,

A number of consultation participants spoke of the need to more fully incorporate family reunion as part of the overall structure of the Refugee and Humanitarian Program in recognition of the fundamental importance of families being able to find safety together. As one service provider in Geelong put it: “If you’re going to cap the numbers at 13,000 or 20,000 or whatever it is, that’s fine but you have to keep an eye on this [family reunion] process…If you’re capping at a certain amount you want to keep strict boundaries around the processing and timing of processing [for family reunion].”

Several participants also highlighted the need for Australia to embed family unity and the right to family reunion into broader policy and planning. The integrity of the family is protected under international law, including refugee law (as argued by Kate Jastram and Katherine Newland in a 2001 discussion paper on refugee family reunion):

There is universal consensus that, as the fundamental unit of society, the family is entitled to respect and protection….The 1951 Refugee Convention provides protection for the refugee family in a number of articles, without specifically mentioning family unity or reunification. However, refugees’ “essential right” to family unity was the subject of recommendations approved unanimously by the Conference of Plenipotentiaries that adopted the final text of the Convention [at which Australia was present].

How timely humanitarian family reunion can be facilitated is a matter for broader immigration policy and planning. However, there are precedents in Australian immigration policy that would allow for greater opportunities for humanitarian family reunion than currently exist. As one written submission received by RCOA argues:

Prior to changes introduced by the Howard Government, family reunion for refugees was achieved mainly through the general migration program, through Special Assistance Categories and the family stream, in particular preferential family categories. Family reunion was then considered a high priority… A Preferential family category should be re-established as part of the family stream of the general migration program to allow for affordable and timely family reunion. Special Assistance Categories should be reintroduced to facilitate family reunion for refugees from particular countries, particularly for those family groupings that [face] indefinite separation.

Notwithstanding the recommendation of the Expert Panel not to immediately review the link between the SHP and the onshore stream of the Humanitarian Program, a recommendation that has been strongly articulated by RCOA since the policy was introduced and was again put forward in consultations this year, is the need to de-link these two components of the Refugee and Humanitarian Program. This would enable a more clearly defined SHP that could be used to provide realistic opportunities for humanitarian family reunion and enable better planning overall.

4.5.3. The Special Humanitarian Program

I’m totally confused. How do we call this program a ‘Special Humanitarian Program’? I myself, I cannot say to anybody this is a special humanitarian program, because to me it doesn’t look like it’s a humanitarian program. There are already people who have waited for three years and we still want them to wait another seven or eight years to see their family, to see their families in a safe place. But still we expect from them to continue in Australia for developing this country. I’m not sure. I don’t know. I’m just confused.

– Hazara community member, Geelong

A large amount of feedback received from consultations concerned the overall viability of the SHP, particularly in relation to the numerical link and the diminishing number of places to meet an increasing demand. The decrease of SHP places was seen as having a negative impact – particularly on those seeking immediate (split) family reunion, of which there have been increasing numbers – on the ability of people to sponsor extended family members and dependents and build viable communities, and on volunteer organisations that have a history of supporting humanitarian resettlement through proposing people through the SHP. One service provider in Canberra commented: “In the past, the SHP played an important role in building communities. It had the capacity for people to sponsor people who weren’t in their immediate family. I can think of communities in Canberra which were built through SHP – functional and supportive communities.”

Closely related to the capacity and demands on the SHP is the evident frustration at the breakdown in communication about the processing and prioritisation of applications. Refugee and humanitarian entrants who have been led to believe that they would be eligible to propose a family member once they arrived in Australia, often by overseas processing personnel or by community members who have been successful in proposing in the past when the program was larger, spoke about their confusion and disappointment at either receiving rejection letters with little detail or at not receiving any communication at all. As one service provider in Wollongong describes:

“It’s not that they’re asking for something impossible. They do have a right to know if the application is successful or how long the process will take. After six months, after one year, nothing happens and they are more frustrated...It’s not enough to say: ‘We are busy and you have to be patient’.

A member of the Liberian community in Townsville stated:

“When the Department of Immigration interviewed me [in Guinea in 2006], they asked if I had any close family. Then I didn’t have my sister and brother close with me but I told them. They said: ‘When you get to Australia, you can apply for them’. Now when I am in Australia I am told they are not “immediate family” and they cannot come. My sister has died but I still want my brother to come. I have applied for him but they said no. I have waited for a year for a letter to tell me why they have denied him. I want to know the reason.

With regard to the changes in eligibility to the SHP put forward by the Expert Panel, community members and service providers across the country voiced significant concerns about the implications of these changes. In particular, many people spoke about the unfairness of a retrospective policy change that will see split family applications of adult boat arrivals reassessed under all the SHP criteria. Given that these refugees have already travelled to Australia – that is, the removal of concessions is not designed to deter this group from undertaking dangerous sea voyages in the future – it is difficult to view this measure as anything other than punitive. In the words of a service provider in Geelong:

“It doesn’t make sense how they can backtrack and say, these people who have already been waiting two years, and you said they satisfied the split family criteria, now all of a sudden you’ve shifted the markers. You’re changing the rules again. It just doesn’t seem right.

At the same time, some people fear that reassessments will not only further prolong separation and be extremely onerous administratively but will also effectively remove the eligibility for immediate families to reunite because of the discretionary nature of the “compelling reasons” criteria and the Minister’s clear statement that these cases would be given “lowest priority”. As one migration agent in Melbourne put it: “I’m wary of how the DIAC will approach these cases and I suspect they will be looking for reasons to refuse rather than grant these visas.” For example, the reassessment will include a review of the extent of the applicant’s connection to Australia and the person’s settlement prospects. As many of the proposers are only recent arrivals and may not yet have established themselves in the community, applications may be refused on these grounds.

The test of “persecution or substantial discrimination amounting to a gross violation of human
rights” is also a difficult one to meet, even for people from minority ethnicities or religions. Persecution involves some serious harm and discrimination must be systematic. Indeed, many of the SHP rejection letters acknowledge that applicants face “general security situations” but have not demonstrated that they are “individually subject to persecution or discrimination to a significant degree”. This includes applicants who are women and children from the Hazara minority in Pakistan and Afghanistan, where the security situation is widely reported to be deteriorating. Finally, the reassessment letters are asking proposers for details such as UNHCR registration and, as one service provider in Geelong describes, “particularly the Afghans are saying: ‘Well, that’s the reason why we got on a boat in the first place, because we go to the IOM and UN and they kick us out the door and tell us not to come back!’”

From a service provider perspective, the implications of the reassessment of all of the split family applications of 866 visa holders in the backlog represents a significant challenge, with the demand for migration assistance increasing enormously in an already-stretched system. At the time that community consultations were held, letters were being received by applicants asking for further details and a response within a relatively short timeframe (many as little as 28 days). Some of the migration agents funded under the Settlement Grants Program (SGP) who carry the files from original applications felt unable to assist with cases due to funding and workload constraints. One service provider spoke about having assisted with 300 split family applications in the last 2½ years and only having the funded capacity to provide migration advice one day per week. In the absence of accessible migration agents, many of those subjected to this reassessment will have limited choice but to either respond to letters themselves without legal assistance, jeopardising the quality of their application, or find the considerable resources to seek assistance through a fee-paying migration agent. The 28 day timeframe for responding was seen as particularly unfair. As one service provider remarked: “We haven’t even got the message out there and they’re giving them 28 days but then they’ve got to wait in the queue for 10 to 15 years!” Another service provider in Dandenong asked: “Who does DIAC think is going to pick up all this work?”

Although Minister Bowen has announced that split family applications made by unaccompanied humanitarian minors (UHMs) who arrived prior to 13 August 2012 would not be reassessed against the “compelling reasons” criteria, concerns were raised in consultations that some UHMs have been receiving the same letters as adult Protection Visa holders asking them to respond with more information, and that there was a lack of clarity about how these and other minors will be prioritised in future. If UHMs are assessed under some or all of the “compelling reasons” criteria, service providers have raised concerns that it is much harder for a 17-year-old to demonstrate the extent of the applicant’s connection to Australia and the person’s settlement prospects. A service provider in Melbourne noted:

For many young people… the realisation that it will likely take many, many years before their family will be able to join them in Australia (if at all), is inherently traumatic and in addition to the trauma they may have experienced in their journey to Australia (and compounded by the process of seeking asylum). The lack of family reunion options can have implications for their physical and mental health and impact on their capacity for a long-term view of settlement in Australia or motivation to build connections to support settlement, including engagement in education, training and employment.

While DIAC has stated that from 28 September 2012, SHP applications will be processed in the following order: (1) “split family” of SHP visa holders; (2) “split family” of minors; (3) non “split family” SHP applications; and (4) “split family” of Protection (and Resolution of Status) visa holders, some consultation participants raised concerns about what this re-prioritisation means in effect. That is, in the absence of a queue system, would any application made by someone who falls in the first priority category be automatically granted before that of a second priority applicant, regardless of when the applications are received? As one service provider in Shepparton describes: “It’s hard to see if there is any hope [for unaccompanied minors continuing] through this process.” As for the split family applicants of adult Protection Visa holders, the reprioritisation potentially means that a visa would never be granted even if an applicant was assessed and met

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all criteria, as presumably there would continue to be more applications submitted by people who fall into the first three priority groups than there are likely to ever be places in the SHP. As one consultation participant in Townsville put it: “I think people in Australia should know that there’s a large group of people in Australia now that have no hope of seeing their wives and children.” Another service provider in Perth described the impact of this reprioritisation saying: “The people in the backlog have such melancholy.”

Finally, many consultation participants spoke about the punitive policy change that removes future eligibility to apply for family reunion under the SHP to any refugee who arrived by boat after 13 August 2012. One service provider in Werribee stated: “The government is punishing people for making a desperate decision; they are creating different classes of refugees, even though those on 866 visas are still refugees.” As outlined in the following section, the lack of accessibility to family stream visas in the Migration Program and the restriction of access to the SHP, means that refugees who arrived by boat after 13 August 2012 may face indefinite separation with their immediate families.

In the absence of clear humanitarian family reunion policy and planning, there is a need for a reconsideration of how to practically deal with the significant backlog in the SHP, particularly for the families of split family applicants that currently face indefinite or extremely protracted separation. That is, the decision to reassess split family applications of adult Protection Visa holders with the effect, presumably, of removing them altogether from this backlog was widely considered to be an enormously costly, ineffective and punitive response to the problem of refugees being separated from their immediate families. To start with, this reassessment is only going to provide a fair outcome if those subject to these changes are able to access the necessary migration and legal advice and if they are given the time to properly prepare the information being requested. Secondly, this reassessment is going to be administratively onerous and prolong separation timeframes even further. Finally, for applications that are reassessed and do meet all the criteria, the timeframes for a visa grant in the context of re-prioritisation and the lack of overall places in the SHP, may still result in indefinite separation. As one service provider in Geelong argued:

> It’s like a big pipe that’s been blocked. They need to clear that so then it can run smoothly. They should have an amnesty or something for all of those people who arrived pre-13 August. Let’s look at reuniting those families because, if they do, those people will live far more productive, useful, happy and healthy lives, and that is where I think our money would be saved.

One recommendation that was put forward in several consultations was for there to be a clear articulation of how the new prioritisation of SHP applications will be implemented in practice and the expected timeframes for different priority groups. This was seen as particularly important for people to be able to make an informed decision about whether or not to pursue alternative visa options. For example, if the process for prioritisation results in the split family of adult boat arrivals (the ‘lowest priority’) being indefinitely deferred for assessment as applications from the other three priority groups are received, then this needs to be clearly communicated to those affected. Similarly, although unaccompanied minors are listed as a second priority, the demand and supply of SHP visas may mean that timeframes for visa grants for these families are still many years. For unaccompanied minors, this is of particular concern considering their vulnerability and age. Indeed, a number of consultation participants called for a review of the SHP priorities to reflect the fact that children in split family situations — regardless of refugee or humanitarian visa sub-class — should be a top priority in family reunion considerations. Finally, consultation participants across the country deplored the decision to remove future eligibility to family reunion through the SHP for any refugee who arrives in Australia by boat post-August 13. This change undermines the right to family unity and fails to recognise why people seek asylum without their families, and the vulnerabilities and lack of protection afforded to those left behind.

Even were the reassessment of the split family applicants to result in a dramatic reduction in the SHP backlog, this unfortunately does not provide a solution for refugee families seeking to reunite. The solutions that are required to deal with a lack of humanitarian family reunion options must go beyond simply reducing eligibility to the SHP and to providing some realistic alternatives. One
practical and humane solution that has been proposed and has precedence internationally is for the Australian Government to work with UNHCR to facilitate the overseas registration of family members of refugee and humanitarian entrants with a view to unlocking potential for their referral for resettlement under the increased 12,000 offshore Refugee visas. That is, the reason why many people make the dangerous journey to Australia by boat is because of the limited access to UNHCR in countries of asylum. The wives and children left behind, particularly in the case of those in Pakistan, have practically no chance for resettlement through offshore processes. For some refugee communities, such as those on the Thai-Burma border, families have been separated and continue to remain apart because of the lack of access to UNHCR registration. Were the Australian Government able to work with UNHCR to identify families of SHP proposers in countries of asylum and facilitate the assessment of protection claims and registration, this could potentially lead to their prioritisation for reunion through offshore resettlement places. This would have the dual effect of also facilitating UNHCR referrals, which RCOA understands are currently stretched due to resource limitations (refer to Section 3.6.1).

4.5.4. Humanitarian entrants in the family stream of the Migration Program

One of the key recommendations of the Expert Panel to enable humanitarian family reunion in the context of a restriction in eligibility to, and lack of places in, the SHP has been to announce 4,000 additional places in the family stream of the Migration Program allocated specifically to humanitarian entrants. In light of this change, RCOA asked community members and service providers to comment on what they saw as the possibilities and barriers for humanitarian entrants proposing to reunite with family members through the Migration Program. In general, consultation participants welcomed the increase but also raised many concerns about whether this would realistically lead to many applications being successful due to the significant barriers faced by refugee and humanitarian entrants in meeting the visa requirements.

A number of consultation participants called for greater clarity about how these additional 4,000 places would be processed and prioritised for humanitarian entrant proposers, considering the lengthy waiting times that currently exist for many of the family visa sub-classes (particularly Orphaned Relative, Partner and Parent visas). A service provider in Darwin, for example, stated “I’m curious as to how they are going to separate the 4,000 visas from the other family migration visas, given that it is a capped number. Who will be able to apply? It would be great to have more clarity on that. What proportion will be Partner, what proportion Parent?”

Clarification sought by consultation participants included:

- Will these 4,000 places be quarantined for humanitarian entrant proposers and held over to the following financial year if places are not met?
- If there is an expected 15-20 year wait for a Parent visa, will a humanitarian entrant (for example, an unaccompanied humanitarian minor) who meets all the requirements to sponsor their parent be granted a visa in a shorter timeframe within the 4,000 allocated places?
- How will the applications of humanitarian entrant proposers be initially identified and processed within DIAC?
- Will there be a process of prioritisation of visa sub-classes (e.g. Partner, Parent, Child) within these 4,000 places?
- Will both offshore and onshore DIAC processing personnel be appropriately resourced and trained to deal with the increase in applications from what must be a new (and complex) cohort within the family stream?

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27 See recent report in the Karen News regarding UNHCR screening of refugees entitled to family reunion on the Thai-Burma border, where access to UNHCR registration has been halted for over 7 years and many camp residents – including family members of those resettled in Australia – have not been able to register and considered for resettlement: Lay, P. K. “UNHCR starts screening of refugees entitled to family reunion”. Karen News, 26 August, http://karennews.org/2012/08/unhcr-starts-screening-of-refugees-entitled-to-family-reunion.html/

28 For example, the DIAC website (www.immi.gov.au/migrants/partners/partner/309-100/how-the-visa-works.htm) and application form for Partner visas clearly state that humanitarian entrants who declared their relationship at the time that their visa was granted are eligible for a permanent partner visa (sub-class 100) without requiring to go through the two-year temporary visa process (sub-class 309). However, concerns have been
• Will estimated timeframes for processing and granting family stream visas be clearly communicated to humanitarian entrant proposers in light of the already-protracted processes that many have already been through?

Costs
In terms of humanitarian entrants successfully applying for and being granted family stream visas, one of the main barriers identified by consultation participants across the country was the significant costs involved. Cost is a major barrier due to the lack of financial capacity of many refugee and humanitarian entrants, particularly those that are more recently arrived and who had an SHP application in the backlog (i.e. who had been in the country less than five years). For example, the costs involved in an average family stream visa include: application fees (including recent changes that will see an increase in Partner visa fees and additional fees for each dependent child associated with a Partner application), migration agent fees, the costs of obtaining documentation and airfares. For refugee families, many of whom have large families, the estimated costs range in the tens of thousands. As one service provider in Geelong described:

A lot of our clients are moving to the family visa stream and they don't have the money to do that. How are they going to get the money? [The government is] talking about people smugglers and this now just opens up a whole new avenue of loaning money. So probably the person you gave the money to get on the boat is going to lend you back the money so you can pay for your family to come through the family stream!...They're going to do it regardless or not of whether they're going to have the money.

One sub-group of humanitarian entrants that would be particularly disadvantaged by the costs involved in applying for family stream visas are young people, including unaccompanied minors. As one service provider in Melbourne described:

Newly arrived young people are often at significant financial disadvantage, arriving with few or no possessions and may have limited income due to visa entitlements. Newly arrived young people may be remitting money to family members overseas. With the pressure to send money to family overseas young people find work (low-skilled or low-paid) at the cost of their education.

Migration advice
Accessing the necessary migration advice and assistance to navigate complex visa application processes, particularly for those who may have limited English and/or education, was cited as another significant barrier to humanitarian entrants successfully reuniting through the family stream of the Migration Program. Low-cost or free migration agents are in short supply in most parts of the country where refugee communities are settling, and many prioritise providing assistance for SHP applications only. As one Karen community member in Werribee joked: “The queue to see the migration advice is longer than from here to Geelong!”

In addition, many community members spoke about the difficulties they encountered accessing private fee-charging migration agents that charge whether or not an application is successful (or likely to be successful), and some felt that many agents do not have the specialist knowledge or experience in assisting with the applications of people from refugee backgrounds. For example, one service provider in Werribee warned that “People will put in applications with migration agents even if we know they will be rejected, because at least there is a glimmer of hope. [Private] migration agents don’t care if the application is not going to be successful, because they get paid.” Another said that those who cannot access or afford to access professional migration advice are

raised that this guideline is not being adhered to in practice for reasons including: That there is no part of the sponsor visa application form (Form 40SP) that would identify a sponsor as someone who came to Australia on a humanitarian visa; most community members and service providers that RCOA consulted are unaware of this guideline and are unlikely to specifically request the grant of the permanent visa at the time of application; and, there appear to be inconsistencies in the practices of different offshore processing offices. It is concerns such as these that require a considered response to how DIAC will ensure humanitarian entrants who do choose to apply to reunite on family stream visas are afforded the best advice and outcome.

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filling in forms themselves and are automatically being rejected.

*We see a lot of people who want assistance in sponsoring their families and there are no free government-funded services available to assist...There is a gap in service provision for those people. People will find it difficult to fill out forms or get assistance with doing this. Family composition is complicated. Locating family is complicated. You may be including people who aren’t actually related. It’s very complicated. Applications take a long time and there’s nobody out there that is funded to do that.*

– Service provider, Sydney

**Documentation requirements**

The documentation requirements for many of the family stream visa sub-classes are another major barrier to humanitarian family reunion. The refugee experience is typified by persecution and a breakdown of civil society, flight and conflict, all of which commonly result in people arriving in Australia with little or no documentation. Many refugees come from countries where civil and administrative systems are corrupt or non-existent, and documents that people in Australia take for granted – such as marriage, birth and death certificates – do not exist or cannot be sought through any official channel. As one Liberian community member in Adelaide describes:

*People are struggling with document requirements. A marriage certificate, for example – when fleeing conflict, you don’t bring those things. The only thing I took when fleeing war was my life.*

In consultations, many people identified particular visa documentation requirements that were virtually impossible to meet. For example, obtaining police certificates from any country in which an applicant has spent a total of 12 months or more in the last 10 years since turning 16 years of age is impossible for many people who have lived in countries of asylum where they have no legal status (e.g. Pakistan, Malaysia) or who come from countries of origin that they have fled because of state-based persecution (e.g. Eritrea, Burma). Were a person able to seek this documentation, it is unlikely this would be through official channels and would require paying bribes and/or travelling back to places of extreme danger (e.g. Afghanistan). In such cases, applications may be rejected on the basis of fraudulent documentation. As one service provider in Shepparton describes:

*We worked with a man who applied for a spouse visa. He was required to give evidence – marriage certificates and whatever – and he couldn’t provide it. So he paid someone in Afghanistan to create false documents. There’s a whole black market in these countries where you can pay people and you get documentation. But if that documentation is found to be fraudulent then the application is void. People are doing these things because the government is imposing these requirements on them. It creates an environment where people have to fake documents.*

Another documentation requirement that consultation participants identified as problematic was the need to provide evidence of ongoing relationships in the case of Partner visas. In many places, marriage certificates are not issued and cannot be acquired (e.g. in refugee camps or in countries like Afghanistan, where certificates are commonly issued by religious councils and not by the state). A couple may have limited or no education and have not had access to such things as bank accounts, phone records or email to provide written proof of their relationship over time. In these cases, it is very difficult to provide the kinds of evidence that are being requested in visa applications. As one service provider in Werribee described: “A barrier to proving relationships is communication. People in camps often have no access to email, phone calls – what evidence is there of a relationship to provide to DIAC?” A Karen community member also from Werribee said:

*They ask what country we have citizenship but we are not part of Burma; we are living in a Thai camp. We are people who don’t belong anywhere. The form asks when your relationship start. There are not documents. Some people have grandchildren already but not documents! So the questions on the visa application forms need to cater for refugees.*

Even where official documentation does exist, poor quality and variation in the way in which
information is recorded can present significant challenges and add to the complexity of making a successful family visa application. As one Karen community member describes: “We don’t have family names, just have given names but in the form we have to fill out both. Then when the names don’t match up between a husband and wife, for example, this becomes suspect for interviewers.”

Case study A

Mr A, a Hazara man who was granted an onshore Protection visa in 2009, submitted an application to reunite with his wife and five children through the SHP 2½ years ago. He recently received a letter saying this application will be reassessed and it will take a year to review his case. Mr A, who is working part-time, has decided to apply for a partner visa and has recently seen a lawyer.

The lawyer, who is charging roughly $3,600 to assist with Mr A’s visa application, has asked Mr A to provide a number of standard documents. These include police clearances from any country that Mr A’s wife has lived in over the past 10 years for 12 months or more. In his wife’s case, this is Pakistan and Afghanistan. As with most Hazara, his wife has no official status or documentation in Pakistan and has not been able to access UNHCR to register there. Obtaining a police clearance from the Pakistani government for someone with no legal status would require Mr A paying a bribe and using unofficial channels, seriously jeopardising the potential grant of a visa on the grounds of fraudulent documentation. The danger and cost of getting a police clearance from Afghanistan also makes it virtually impossible. For example, Mr A estimates it will cost between $500 and $1,000 to get a police clearance by bribing someone as regular channels are virtually non-existent. Mr A says it is common for officials accepting bribes to extort more money when they know what it is for and that there is a family member overseas. The risks in obtaining these documents are enormous. If Mr A’s wife or son (his eldest son is 17) travel to Afghanistan to seek these documents and are arrested, he will have to pay a ransom to have them released or they will be killed. He said family members of those who are abducted can pay more than $1,000 for release. As the family is Hazara and Shi’a, they are easily identifiable and targeted.

In addition to these police clearances, Mr A has been asked to provide a marriage certificate and has been told by the migration agent that the certificate he has from a local religious council in Afghanistan – which includes his name, his wife’s name, the date of their marriage and their photo – is apparently not sufficient evidence for a partner visa application and he has been asked to obtain an official marriage certificate from the Afghan government, facing the same hurdles as in obtaining a police clearance.

As the Afghan Government does not issue photo identification for children under eight years old, Mr A would also need to obtain and pay for DNA testing to confirm the relationship of his five children. As his wife and children are in Quetta, this would require paying further costs for travelling to Islamabad to the required testing facility, further placing his family at security risk due to their undocumented status and as an easily identified ethnic minority.

The total estimated costs of making the partner visa application, were Mr A able to obtain all of the necessary documents, would be over $24,000 (this covers legal advice, application fee, obtaining marriage and police clearances, DNA tests, travel and bribes for family members acquiring documents and airfares to Australia).

Eligibility requirements

Difficulties in meeting visa requirements can result in refugee families either being rejected outright or having to make the impossible decision to leave one family member out of an application. This is particularly the case for parents seeking to reunite with dependent children who are over 18. The visa requirements stipulate that adult dependent children must be “validly enrolled, and actively participating, in a full-time post-secondary course of study leading to a professional, trade or vocational qualification”, not be in full-time employment and be financially dependent on a parent. In countries of asylum, however, these requirements may be impossible to meet. If the child is a Hazara female in Pakistan without legal status, for example, they would not have the right to education and have very limited formal options because of the security situation; or a young adult male may be the only breadwinner and be forced to work to support the family in the absence of family head. As a service provider in Geelong describes:

*Another barrier is a lot of the children will not be in full-time study. All those children over 18 who are not in full-time study get rejected. It’s a nightmare for them because you’re asking them to split their families up.*

In addition, health requirements in the Migration Program deem that if one member of the family
fails the health criteria, the whole family fails. In refugee situations, it is common for family members to have suffered physical and psychological trauma. A number of consultation participants spoke about families that were ineligible because of complex health needs.

Another eligibility requirement that is impossible to meet relates to unaccompanied humanitarian minors seeking to sponsor their parents. One of the Parent visa criteria is that applicants have to meet the balance of family test. The balance of family test requires that at least half of the applicants’ children live permanently in Australia, or that more of their children live permanently in Australia than in any other country. Children from both parents are counted in the test. Needless to say, this criterion effectively excludes most UHMs from applying for their parents.

Case study B
Mr B fled Afghanistan and sought asylum in Australia in 2009. He was granted a permanent Protection Visa in 2010 and is now seeking to reunite with his family. Mr B’s wife and seven children are currently living in Quetta, Pakistan, where the security situation is deteriorating and his family have not been able to register with UNHCR. Mr B had made an application for his family to reunite through the SHP but has since been subject to a reassessment of this application and the prospect of indefinite separation.

Mr B has sought migration advice to explore options for him to sponsor his wife and children through the family stream of the Migration Program. Mr B was advised that he could make an application for a Partner visa, however a number of serious barriers face him. Foremost are the financial requirements. The cost of applying for his wife and children to come (estimated at well over $20,000) are unobtainable on his current Centrelink income. As Mr B is in his 50s, has complex health issues and limited English, his short-term employment prospects are limited.

In addition, Mr B has been advised that he may not have any success including his eldest daughter in the application as she is in her 20s, is not in full-time education and has a baby of her own (sadly, the child is the result of his daughter being abducted, kept hostage and raped.) None of his children are in education.

Finally, Mr B has a son who has health issues as a result of being in close proximity to a bomb blast (he suffers from post-traumatic stress disorder and has a severe hearing impairment). Mr B has been advised that the family’s visa application may be refused on the grounds of his son failing to meet the health criteria.

Mr B is distraught by the prospect of indefinite separation from his family, who are living in significant danger. He does not know whether to go ahead and make an application (which will require him to borrow money) if there is a likelihood that either the whole family will be rejected on health grounds or he will be forced to make a decision about leaving his daughter behind. The visa application and migration agent fees are non-refundable.

Visa options
Perhaps the most frequently-discussed limitation of the proposal to facilitate humanitarian family reunion through the family stream of the Migration Program is the lack of visa options for some familial relationships. Where the SHP has in the past provided an option for extended families to be reunited, this effectively does not exist because of the limitations of the SHP identified earlier. The types of family relationships that are excluded from the family stream of the Migration Program, or are so restrictive as to make them practically non-existent, include: customarily adopted children, adult siblings, grandparents, parents and adult children (see case study C). For families in this situation, the prospect of indefinite separation is real.

Case study C
Mr C fled the Democratic Republic of Congo in 2001 and spent 10 years as a refugee in Kenya. Mr C has four children, one from an earlier marriage and three with his current wife. Mr C’s wife and four children are all included on the mandate that Mr C was given when he registered with UNHCR in 2001 and have all lived under the same roof since fleeing the DRC.

When Mr C was accepted for resettlement to Australia in 2011, he was informed at the time that his eldest son, who was 22, would not be granted a visa as he was not considered a dependent child. Mr C was informed of this one month before departing Kenya but was reassured by offshore processing personnel that he could apply to bring his son to Australia after he had resettled.
Mr C has now been in Australia for two years and has been informed that the chances of bringing his son under the SHP are almost non-existent, as he is not considered to be immediate (split) family. He applied regardless and since received a refusal letter. Mr C has no other visa options within the family stream of the Migration Program for sponsoring an adult child to come to Australia, despite the fact that his son is living by himself in a refugee camp and Mr C is financially supporting him. Mr C fears for his son’s safety and is devastated by the prospect of indefinite separation.

**Settlement support**

For humanitarian entrants who are successful in making an application to reunite with family members through the general Migration Program, the lack of settlement support afforded to these visa holders was highlighted as a particular concern. As many service providers noted, those who come through the family stream are not eligible for the same on-arrival settlement services as people who arrive through the humanitarian stream, and this is likely to result in a bigger demand for general community services. As one service provider in Darwin put it: “If you are coming from a background of extreme trauma, you need support. The family migration program is structured for voluntary migrants.”

While the partners of refugee and humanitarian entrants are exempt from the two-year Newly Arrived Resident’s Waiting Period (NARWP) to access Centrelink and may be eligible to receive Special Benefit payments on arrival, this policy is not widely understood and there is much confusion within communities and among service providers about the entitlements of family visa holders to social security. Many consultation participants spoke about the lack of income support being a major barrier to pursuing family stream visas because of their own limited financial capacity, and others spoke of the likely stress on families who do reunite and struggle to survive on a single low income. For example:

> The problem with partner visas is that, maybe our family will come faster but as you know anyone over 16 can’t get Centrelink payment for two years which is something that is impossible for us to live [on]... We are new arrivals and it’s difficult for us to get a job.

– Iraqi community member, Shepparton

> If you come on a partner visa or bring your child, there is a two-year wait for benefits. And that two-year wait is after you get permanent residency.

– Service provider, Blacktown

As those arriving on family stream visas would not be eligible for on-arrival case management from settlement services, understanding the nuances of Centrelink entitlements and how to apply for these would fall on (recently-arrived) humanitarian entrant proposer themselves, a situation that may see vulnerable new arrivals with little financial or other support.

**Reviewing the accessibility of the Migration Program**

> If they’re going to be shunted into the family reunion stream, will there be additional case officers to deal with the extra numbers? If not, the waiting time will blow out. There are more things case officers will have to look at with these sorts of applications.

– Service provider, Sydney

Many consultation participants spoke about the need to review accessibility for humanitarian entrants to the family stream of the Migration Program. Again, while an increase in 4,000 places for humanitarian entrants recommended by the Expert Panel is welcome, these places will only facilitate timely family reunion if processes are fair and eligibility requirements accessible. Recommendations for enabling humanitarian family reunion to occur through the Migration Program included:

- Ensuring these 4,000 places are quarantined for humanitarian entrant proposers only;
- Reviewing application fees and introducing concessions for humanitarian entrant

proposers;

- Introducing flexibility in documentation requirements for people from refugee backgrounds;
- Reviewing eligibility requirements (e.g. health, education, balance of family tests) that will effectively exclude many humanitarian entrants from applying;
- Implementing a comprehensive communication strategy targeting refugee communities about the family stream of the Migration Program and visa sub-classes and eligibility requirements; and
- Resourcing offshore and Australian processing offices to recognise and consider applications from humanitarian entrant proposers as separate to applications from non-humanitarian proposers.

4.5.5. The need for migration advice

*We are confused. We don’t know what we have to do. We fill in the form ourselves and send it to DIAC but they don’t respond and we don’t know if we need a lawyer or not.*

– Iraqi community member, Shepparton

In light of the changes to humanitarian family reunion policy, many service providers and community members called for more migration advice, support and information targeting refugee communities. This included the provision of general information about family reunion visa options, eligibility and timeframes in community languages and increased funding for services to provide low-cost or free migration advice and support to humanitarian entrants seeking to reunite with family members. As one service provider in Sydney put it: “It’s going to help the Department in the long run... If there are better prepared applications...there will be less to-ing and fro-ing to get information... If people get assistance, it will be better for the whole system in the long run.”

4.5.6. The implications of family separation

*When I go to women’s groups and ask them: ‘What are the things that will make you healthy in Australia?’ one of the things women always raise is family reunion. They say: ‘Our bodies are here but our minds are in Iraq or Sudan or Burundi’. It affects learning English, it affects everything.*

– Health worker, Blacktown

While lack of family reunion options and the impacts of separation have been consistently raised as a primary concern for refugee and humanitarian entrants in RCOA community consultations over many years, this year concerns have been heightened. This may be due to the fact that it is no longer just extended family members facing protracted or indefinite separation but also a large number of immediate family members. Extended families now face protracted or indefinite separation due to the lack of places in the SHP and the lack of alternatives within the family stream of the Migration Program. However, the 16,300 split family applications in the SHP backlog that represent the wives and children of adult boat arrivals and the parents and siblings of unaccompanied minors, now face indefinite or protracted separation because of the reassessment of these applications, the reprioritisation of processing and lack of places in the SHP, and the difficulties highlighted above in successfully applying for a family stream visa. As one service provider in Werribee noted: “We are seeing the impact on communities we are working with in Wyndham...of family separation. These are tragic impacts.” Another provider in Wollongong said that family separation “makes a mess of resettlement”.

One of the implications of the lack of timely humanitarian family reunion options most commonly cited in consultations was, ironically, that more people would be arriving by boat. As one Iranian community member in Melbourne simply put it: “People are bringing their family by boat because there is no access to family reunion.” Across the country, community members from diverse backgrounds (including those who had been granted offshore visas) spoke about their desperation to see their family members safe and that, despite Australia’s harsh treatment of asylum seekers who arrive by boat, it would still be better and faster to reunite with family members through
irregular pathways than the extremely restrictive and inadequate family reunion pathways that currently exist. As noted by a member of the Hazara community in Brisbane:

People anyway want to come out. They will be forced to come out to save their lives and their children's lives. They have to come out...If they are coming out and have no right for family reunion, in the future they come out with their family, with their children, rather than single because they want their families. They don't want them to be killed in Afghanistan. They are trying their best, struggling to survive.

An emerging trend spoken about in consultations was humanitarian entrants returning or planning to return to countries of asylum to convene with family because of the length of their separation and uncertainty about whether they would be able to see their wives and children again. As one service provider in Coffs Harbour described: “Men feel guilty that they have left family behind and not fulfilling their roles as providers and protectors of their family members”. The impacts on settlement experiences and prospects – including children being taken out of school for extended periods of time, people taking unpaid leave from work and general disruption in settlement – were identified in a number of consultations, as were the dangers to which people were returning and the risks they felt compelled to take. As one service provider in Dandenong said:

When they've knocked on every door and they can't really find a solution, they decide to go and see the family and reunite with them and support them.

The mental health and other health impacts of family separation were frequently voiced as of major concern by consultation participants across the country. One migration agent in Dandenong, for example, reported an increasing number of clients who are self-harming, noting: “It is not unusual to see people with cuts on their arms”. Others spoke about the anxiety, stress and powerlessness felt by those who were unable to reunite and the serious implications this had on settlement. As a community member in Wollongong described: “We are not happy because the family is split – the trauma is affecting us. We can’t settle well. Every day we get a telephone call, we are always traumatised by fear about our relatives. We don’t have a stable mind.”

Many service providers expressed similar sentiments, saying that provision of settlement services was particularly difficult when clients were so distracted by family separation. As one service provider in Townsville described: “We are working with people who have serious problems and cannot settle. When we say they can talk to a counsellor, they say: ‘Why should I do that? I know what my problem is: my family is not here’.” Another service provider in Shepparton said:

The impacts of family separation are just devastating. I have this man whose family is in Pakistan. His children aren’t safe; they can’t go to school; they are scared to go outside. I asked him if he talks to the other men [with whom he shares a house] and he said: ‘No, we just go to our rooms and cry’…There’s no answer, because they can’t do anything to protect their families…Their physical health is also affected. They are not eating very often; they’re relying on food banks. And then there’s a vicious cycle, as there’s depression and they have trouble getting pharmaceuticals.

Another significant concern raised in consultations relates to the economic impacts of family separation. Again, while issues about sending remittances have been raised in RCOA community consultations over many years, this year the extent to which community members were remitting and the implications on settlement that were reported were alarming. Consultation participants talked about newly arrived humanitarian entrants being in situations of extreme deprivation because they were financially supporting their family members overseas, with outcomes including:

- Homelessness and people living in overcrowded housing;
- The deterioration of health and people choosing not to eat or pay for medical treatment or medication in favour of sending money overseas;
- An increased reliance on material aid;
- The accrual of debts and people taking out informal loans with resulting legal issues; and
- Humanitarian entrants moving into informal and precarious employment.
One service provider in Logan reported: “We’ve seen cases within communities where their mental health really deteriorates severely and others become homeless because much of the money is going back to their families. So [with] whatever is left, they can’t afford the basics.” Another provider in Shepparton describes the impact of separation:

> There is a double impact. When they do speak to their family members on the phone, it’s often distressed. Every time they talk their wife and children are crying...very high levels of emotion, and this makes people feel even more powerless to do anything. It’s a horrific situation. You can understand then why people who are on limited Centrelink income are sending the majority of their income to their families who are desperate for that support.

Some consultation participants felt that an economic analysis of the costs of family separation is required, as the economic impacts are often invisible to policy makers and borne by extremely vulnerable people.

The social implications of protracted or indefinite family separation were also spoken about in consultations. These included impacts on an individual and family level (e.g. family breakdown, an increase in negative coping mechanisms such as substance abuse and gambling, and domestic violence in cases of families reuniting after prolonged separation) as well as on a broader societal level. As one service provider in Geelong said: “That’s my concern, that there are thousands of men here waiting endlessly, frustrated and angry. What kind of position does that put the rest of the community? It really worries me, about the social implications.” Another service provider in Brisbane warned:

> My concern is that the changes to family reunion could affect social harmony, if you have hundreds of men who can’t reunite with families. That would raise a flag to me.

Many service providers also spoke about the negative impact on settlement outcomes of family separation. A service provider in Melbourne argued that the “social costs and benefits of family unity need to be asserted and taken into account in immigration planning. This includes the benefits of intact family to more rapid integration into the workforce and reduced healthcare costs.” In addition, concern was raised about the social impacts of having communities settle with significant gender imbalance. As one service provider in Darwin warned: “The onshore processing is predominantly of single men. You cannot establish cohesive communities consisting only of one gender.”

Young people separated from their family were also identified as a particularly vulnerable group whose settlement prospects were compromised. As one service provider put forward in a written submission:

> Young people who are separated from family face far greater challenges than those who have the support networks of relatives in Australia. Family reunion can build a critical scaffold of support around a young person, reducing their need for government-funded services. Conversely, young people who are separated from family often experience a number of issues that negatively impact on their mental health, wellbeing and education.

### 4.6. RECOMMENDATIONS

**Recommendation 5**

RCOA recommends that the Australian Government consult with settlement service providers and mainstream agencies involved in providing support to refugees, to determine the additional resources necessary to ensure ongoing quality service provision (particularly SGP services) in light of the expansion of Australia’s Refugee and Humanitarian Program.
Recommendation 6
RCOA recommends that the Australian Government:

c) Immediately end the numerical link between the onshore and offshore components of the Refugee and Humanitarian Program.

d) Should the Recommendation 6(a) not be implemented, expedite the implementation of Recommendation 21 of the Expert Panel of Asylum Seekers by conducting a review of the linkage between the onshore and offshore components of the Program, to set a timeframe for the end of the linkage.

Recommendation 7
RCOA recommends that the Australian Government urgently review its plans for the pilot private sponsorship program, revising the proposed visa application charge to a level more affordable for community organisations and exploring ways of providing incentives for sponsors who work together to assist newly arrived refugees towards financial self-sufficiency.

Recommendation 8
RCOA recommends that the Australian Government conduct a thorough review of how humanitarian family reunion is addressed in policy and planning within the broader immigration program, with due consideration given to how to enable refugee families to be prioritised for timely reunion either within the Refugee and Humanitarian Program or in the general Migration Program.

Recommendation 9
RCOA recommends that DIAC allow the proposers of split family SHP applications subject to reassessment longer timelines for responding to letters requesting additional information. Responses received after the requested number of days should be considered by DIAC in making an assessment.

Recommendation 10
RCOA recommends that DIAC issue a clear statement about how prioritisation in the SHP will be implemented, what this will effectively mean for those deemed ‘the lowest priority’ and expected timeframes.

Recommendation 11
RCOA recommends that the Australian Government reconsider the decision to remove eligibility to the SHP for refugees who arrive by boat after 13 August 2012 as a fundamental denial of the right to unity and protection for families.

Recommendation 12
RCOA recommends that the Australian Government enter into dialogue with UNHCR about establishing a process for identifying refugee families that are seeking reunification, facilitating assessment and registration in countries of asylum (particularly Pakistan and Thailand) and prioritising them for referral for resettlement under Australia’s offshore Refugee Program.

Recommendation 13
RCOA recommends that DIAC consider strategies for ensuring the 4,000 additional places in the family stream of the Migration Program are quarantined for humanitarian entrants and are accessible through:

- Introducing application fee concessions for humanitarian entrant proposers;
- Introducing some flexibility in documentation requirements for people from refugee backgrounds;
- Reviewing eligibility requirements that effectively exclude applicants from refugee backgrounds; and
- Resourcing DIAC’s offshore and Australian processing offices to identify and consider applications from humanitarian entrant proposers separately from applications from non-humanitarian proposers.
**Recommendation 14**
RCOA recommends that DIAC implement a targeted communication strategy to increase refugee community understanding of alternative family reunion pathways.

**Recommendation 15**
RCOA recommends that DIAC increase short-term funding to registered Migration Agents funded through the SGP to support the reassessment of SHP split family applications in the most efficient, fair and timely fashion. RCOA also recommends that consideration be given to increasing the overall amount of funding allocated for migration advice within the SGP in the upcoming funding round.
5. REFUGEE PROTECTION IN ASIA-PACIFIC

5.1. PROTECTION ISSUES IN ASIA-PACIFIC

5.1.1. Key protection issues raised in community consultations

Feedback from this year’s consultations suggests that there has been little improvement, and in some cases deterioration, in conditions in the region’s major countries of refugee origin, with a number of consultation participants highlighting ongoing violence, insecurity and persecution. At the time of the consultations, for example, conflict had again erupted in Burma’s Rakhine state and a member of the Rohingya community in Rockhampton reported that his brother had recently been killed in the violence. Representatives from other Burmese communities expressed fears that recent developments in Burma may lead to pressure for repatriation, as they felt conditions are not yet conducive to safe and sustainable return. In addition to concerns about the lack of genuine peace in Burma, some also felt that repatriation was not a viable option due to a lack of adequate reintegration assistance. As noted by a member of Werribee’s Karen community: “[refugees] cannot go back to Burma because they have no land, no village and nothing to start with so they are hopeless to go back to Burma”. Members of the Tamil community in Sydney told of ongoing discrimination and harassment in Sri Lanka, described by one participant as “inch-by-inch torture”.

Some refugees also reported facing violence and insecurity in countries of asylum. Members of the Mandaean community from Iraq, for example, attested that the escalating conflict in Syria had driven some Iraqi refugees to desperate measures:

> Because of all the suffering and issues [in Syria], some of the families are thinking of going back to Iraq, even though they know this step is a suicidal one but they cannot live in Syria… Because of that suffering, some of them started to risk their lives coming over the ocean. There are 35 people who were planning to travel by boat [to Australia] in May and, until now, their destiny is unknown. No one knows if they drowned or they are detained. Their families keep enquiring and they don’t know anything about them.

Members of the Hazara community expressed concern about violence and harassment in Pakistan, not only in terms of the threat of violence itself but also the barrier this threat presented to accessing durable solutions. Several members of the Hazara community in Dandenong, for example, described the difficulties faced by Hazara refugees in travelling from Quetta to Islamabad for resettlement interviews. One reported that “they cannot even go to a bus terminal to make a trip to Islamabad. Some bus companies refuse to take them because they know that they might attack the bus if they know that there are Hazaras travelling in that bus”. Another participant advised that:

> If they don’t have a passport or visa the police might just take them to jail or something, and in order to get released they have to bribe them. They have to give a lot of money. And even if they bribe them there is no guarantee they don’t stop them in the next check point. So the problem here is they do not have any papers or documents from UNHCR to travel safely.

In addition to violence and insecurity, the most commonly-raised concerns relating to conditions in countries of asylum were lack of legal status and its impact on access to livelihood opportunities, conditions in immigration detention, access to education and training opportunities and access to health care. These conditions were identified not only as key protection issues but also as factors driving dangerous boat journeys to Australia, in that they rendered long-term residence untenable. As explained by a member of the Rohingya community:

> The desperation is growing. Rohingyas never took boats over the last 20 years. They have just recently starting taking boats because they don’t see any future. They don’t see anything happening for them and that’s why they take this risk. They know it’s a risk and nobody wants to come on a boat…If Australia worked with Malaysia to give them just health care and education at least, they will stay there with their children. They won’t take boats.
5.1.2 Protection concerns raised by NGO partners

During 2012, RCOA representatives participated in a number of international and Asia-Pacific meetings which provided further insights into the protection issues of concern to refugee communities and NGOs. The concerns raised internationally match the concerns raised by refugee community members in Australia.

- **A continuing focus on border control:** In responding to the movement of refugees, states are continuing to emphasise border control, the use of immigration detention and the classification, in many cases, of refugees and asylum seekers as "illegal immigrants". During his visit to Australia in February 2012, UN High Commissioner for Refugees, Antonio Guterres, commented: “States have the right, and indeed the obligation, to manage their borders responsibly. But this needs to be done in a way that is ‘protection sensitive’ and does not preclude those who need protection from seeking it.”

- **High risk of detention and limited access to legal protection:** Access to domestic legal systems is highly restricted in some cases and non-existent in others, with UNHCR often left as the only authority to which refugees and asylum seekers can appeal for help. Detention continues to be used widely and even those not currently detained live with the fear of future arrest and detention because of their lack of legal status and the fact that many must work without legal permission in order to feed themselves and their families.

- **Concern about access to UNHCR and the timeliness of its responses:** At UNHCR’s NGO Consultations in Geneva in July 2012, NGOs raised concerns about the difficulties refugees faced in getting access to UNHCR offices in a number of countries in Asia and the Middle East, the timeliness of UNHCR’s responses to people seeking asylum and the inconsistencies between the standards promoted by UNHCR and its refugee status determination processes in some countries.

In critiquing UNHCR’s work, NGO representatives understand the difficult circumstances under which UNHCR operates, particularly in nations which have not ratified the Refugee Convention. Unfortunately, governments which are happy to leave addressing refugees’ needs to UNHCR and civil society rarely have the same “hands off” approach to UNHCR’s activities, with the agency’s staff often left to battle bureaucratic and legal obstacles on a daily basis.

The obstacles faced by refugees and asylum seekers are even greater, with NGOs across the region reporting many incidents of harassment, arrest, detention and threats of return to the country of origin. Human Rights Watch and Jesuit Refugee Service were among a number of NGOs to produce detailed reports on conditions in South-East Asia. NGO concern was also expressed about Bangladesh’s treatment of Rohingya people attempting to flee violence in Burma’s northern Rakhine state and Pakistan’s threat to force the return of all Afghan refugees (now delayed by six months to June 2013).

For refugees on the Thai-Burma border, there is deep concern about the prospect of being forced to return to Burma in light of international perceptions of changed political circumstances within the country. While many refugees are prepared to consider repatriation in the future if conditions are suitable, many believe that those conditions do not yet exist, with organisations such as the Chin Human Rights Organisation continuing to document abuses within Burma. In a workshop hosted by the Burma Partnership and the Asia Pacific Refugee Rights Network (APRRN) at Mae Sot in August, refugee leaders expressed concern about the lack of reliable information on what is happening, the difficulties of trusting Burmese officials, concerns for the safety of women and children, freedom of movement within Burma, the challenges of regaining access to their land, the

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30 Guterres, A. (2012a)
lack of farming skills among young people forced to live for years in refugee camps, the recognition of education gained in camps, access to health services and citizens’ rights within Burma.

5.1.3 Understanding the concerns of refugees

Many of the government responses to refugee movements fail to come to terms with the motivations of refugees to move on. From RCOA’s analysis of refugee protection concerns and our interviews and consultations with many refugees, it is clear that people are motivated to move across borders to a place of greater safety only when their most basic protection needs are not being met. These basic needs are:

1. **Access to refugee status determination**, including access to information about the process, interpretation, legal advice and a fair and accessible system of review.
2. **Legal permission to remain** in the country of asylum during the refugee status determination and review processes.
3. **Freedom from detention**.
4. **Adequate food and shelter**.
5. **The right to livelihoods**, including legal permission to work and a reasonable prospect of finding a sustainable job.
6. **Freedom from violence and access to justice**, including freedom from the serious threat of physical or sexual violence, freedom from harassment and fair treatment by police and legal authorities.
7. **Access to physical and mental health care** which is affordable.
8. **Access to education**, most particularly to an adequate level of education for any children in the family.
9. **Access to a timely durable solution**, including adequate information about the durable solution being considered.

In most cases, refugees who move on do not have access to several, or in some cases even all, of these nine basic needs. However, in some cases, the lack of access to one of these needs – for instance, freedom from violence for a refugee who has lived for years in Quetta, Pakistan – can be so overwhelming that a refugee feels he or she has no option but to find safety elsewhere. Many refugee families are prepared to live for some years without some of their basic needs being met if they believe that a durable solution is on its way. However, when all hope of a timely durable solution is gone, the pressure of living year to year without basic freedoms and basic needs being met becomes so great that onward movement becomes the most viable option.33

5.2 DEVELOPMENTS THROUGH THE BALI PROCESS

Developments relating to regional cooperation on refugee protection through the Bali Process during 2012 have centred on the establishment of the Regional Support Office (RSO) in Bangkok. The RSO has been envisaged as a mechanism to support the operationalisation of the Regional Cooperation Framework (RCF) agreed to by Bali Process members in March 2011, through providing a focal point for information sharing, capacity building, exchange of best practice, pooling of resources and logistical support.

Since the RSO’s establishment in September 2012, it has made significant progress towards the implementation of two key initiatives: the development of standard operating procedures on voluntary repatriation and reintegration assistance (with some asylum seekers and refugees already having received support under this project); and the commencement of a mapping exercise focusing on the treatment of unaccompanied and separated children who arrive irregularly in Indonesia, Malaysia and Thailand. The other foundational projects proposed for the RSO – a data collection project and pilot study and a roundtable on irregular migration by sea – remain in the

33 To understand this point, consider the differences in rates of onward movement between Bhutanese refugees in Nepal (who have significant access to resettlement) and Afghan Hazara refugees from Pakistan (who, on resettlement rates over the past five years, have less than a 1:10,000 chance of being resettled by UNHCR in any given year).
planning stages, with the roundtable now expected to be held in March 2013. Other proposed activities, such as technical training on refugee protection for government personnel, also appear to remain in the preliminary stages of implementation.

RCOA has long argued that greater cooperation among Asia-Pacific states is essential to resolving the complex protection challenges across the region and we support efforts to develop a constructive and sustainable framework for regional cooperation on refugee protection. We also remain hopeful that the RSO could play a valuable role in facilitating the development of this framework. We are concerned, however, by the rate of progress in implementing the proposed RCF. The concept of an RCF was first endorsed by Bali Process member states in March 2011 and the establishment of an RSO approved in October of the same year. Almost a year then elapsed before the RSO became operational and it will be further months before significant outcomes begin to emerge from the RSO’s foundational projects, let alone the initiatives identified as long-term objectives (some of which, as pointed out in last year’s submission, relate to the region’s most pressing protection challenges).

Should the operationalisation of the RCF continue to proceed at this rate, its effectiveness as a mechanism to resolve the key protection challenges across the region is likely to be limited. The current pace of implementation of the RCF is incommensurate with the urgency of the pressing needs of refugees. Moreover, the volatility of forced displacement necessitates a flexible and responsive approach to policy-making, neither of which appears to characterise the current approach to implementing the RCF. Given that, as acknowledged at the commemorative conference celebrating the tenth anniversary of the Bali Process, people smugglers have proven adept at adjusting their operations to suit changing circumstances,34 this need for flexibility is all the more heightened. RCOA strongly urges the Australian Government to continue to work through the Bali Process to accelerate operationalisation of the RCF and ensure that the most pressing needs of refugees and asylum seekers in the region are prioritised.

RCOA also encourages the Australian Government to continue to foster opportunities for civil society participation in the Bali Process, including the activities of the RSO. We note that, at the commemorative conference marking the tenth anniversary of the Bali Process, members “acknowledged the value in increasing engagement with experts from civil society and the private sector in Bali Process workshops where appropriate to ensure the Bali Process remains a responsive forum for policy dialogue”.35 While this acknowledgement related to Bali Process activities on trafficking rather than refugee protection, RCOA is pleased that the value of civil society participation in policy discussions has been recognised. We hope that this will lead to greater opportunities for civil society engagement with the Bali Process in general.

5.3. AUSTRALIA’S ROLE IN THE REGION

5.3.1 Recent developments

As a result of the political deadlock on offshore processing, the shift towards community processing of asylum applications and delays in establishing the RSO, discussions on the issue of regional cooperation on refugee protection were limited during the first half of 2012. Since August, the issue has re-entered policy discussions as a result of recommendations put forward by the Expert Panel on Asylum Seekers.

The Panel’s report acknowledged that “a more comprehensive and sustainable regional framework for improving protection and asylum systems is a key prerequisite for creating safer alternatives to people smuggling” and positioned regional cooperation as one of the core principles which should inform Australia’s approach to asylum policy.36 However, while the Panel outlined some suggested

36 Houston, Aristotle & L’Estrange 2012; see pp. 14 & 32.
focus areas for this regional framework – such as consolidating the RCF, enhancing cooperation on capacity-building initiatives and increasing funding for UNHCR – it did not present a detailed outline of the form and scope of the framework, nor a comprehensive plan for implementation.

Since the report’s release, some steps have already been taken towards strengthening regional cooperation, most notably the announcement of an initial allocation of $10 million in additional funding for capacity-building activities across the region. The increase in Australia’s resettlement program to 20,000 places annually, with a larger number of places allocated to the Middle East and Asia, may also have significant implications for strengthening protection across the region (although it remains to be seen whether and how these places will be used strategically to improve protections for refugees other than those being resettled).

Unfortunately, other recent developments in Australia are likely to have far more negative implications for regional cooperation, particularly the reinstatement of offshore processing. The Australian Government has claimed that offshore processing “sends a clear message that countries in this region are working together towards a lasting regional response in taking action necessary to undermine people smuggling networks, stop those dangerous boat journeys and prevent the loss of life at sea”. RCOA has little confidence in this assertion. Australia’s offshore processing policy is narrowly focused on addressing a specific protection issue directly affecting Australia, that is, the arrival of asylum seekers by boat without authorisation. While the facilities in Nauru and Papua New Guinea have been referred to as “regional processing centres”, the only asylum seekers liable for offshore processing are those who attempt to enter Australia by boat. The policy does not even apply to all asylum seekers entering Australia, let alone all people seeking asylum in the region. The Australian Government’s resolve in reinstating offshore processing has certainly not been matched by a corresponding commitment to developing improved protection and asylum systems to create safer alternatives to people smuggling across the region.

Since the release of the Panel’s report, for example, there appears to have been little effort by Australia to “stop dangerous boat journeys and prevent the loss of life at sea” elsewhere in the region. Between October 2011 and March 2012, it is estimated that between 7,000 and 8,000 people attempted to cross the Bay of Bengal by boat, fleeing persecution in Burma. Between October and December 2012, at least four boats attempting the same journey have sunk and hundreds of people are believed to have drowned. In November, UNHCR expressed alarm at “reports of countries either pushing back boats from their shores or helping them on to another country” and called for a regional response to the situation in Burma. The fact that this response has not eventuated – indeed, the issue has not even been raised in Australian policy discussions relating to boat arrivals – casts further doubt on the assertion that offshore processing forms part of a “lasting regional response” to dangerous boat journeys.

Far from facilitating regional cooperation on protection issues, it is likely that offshore processing will damage prospects for developing a constructive regional framework for refugee protection. As RCOA has noted elsewhere, it will be difficult for Australia to successfully negotiate with other countries to improve protections and broker solutions for refugees and asylum seekers, while simultaneously eroding its own protections for people who seek asylum in Australia. Additionally, by singling out a particular group of asylum seekers based on their mode of arrival, offshore processing sets a damaging precedent of differential treatment and lower standards of protection for asylum seekers who arrive without prior authorisation or valid travel documents, or who undertake risky journeys to seek asylum. Given that the inability to secure travel documents and the imperative to undertake risky journeys to seek protection are realities for hundreds of thousands of refugees in Asia-Pacific (and worldwide), this precedent could have a particularly damaging impact on protection standards across the region.

5.3.2 Regional perceptions of Australia’s role

The feedback RCOA receives from NGOs in Asia is that many are concerned about the role that Australia has played in promoting government responses which make life more difficult for people who need protection from persecution. One Asian NGO leader commented that the Regional Cooperation Framework was designed mainly to protect Australia’s interests by deflecting asylum seekers to other countries, not to address regional refugee protection needs. In the 10 years since the beginning of the Bali Process, much effort has been put on measures to stop movement across borders but little has been done to enhance protection of those who need it.

NGOs are concerned also about the way in which Australia has promoted the use of immigration detention for asylum seekers and refugees in South East Asia over the past decade. Not only has Australia put funds into detention arrangements in Indonesia, it has modelled the widespread use of detention as a response to asylum seekers arriving without prior notice, detaining people on a scale well beyond anywhere else in the region.

Australia’s actions in the region have left a number of NGO leaders wondering what Australia is attempting to achieve and whether it is ultimately undermining its own goal of reducing unregulated flows of asylum seekers to Australia. By promoting greater regional activity on interception and detention and failing to take effective action to increase the protection of refugees and asylum seekers, Australia is seen as contributing to a decline in the security situation for refugees in South East Asia, thereby contributing to the factors which lead many to seek greater protection elsewhere (most particularly in Australia).

5.3.3 The potential for positive Australian leadership

Despite the concern about Australia’s contribution to the decline in protection standards for refugees, Australia could, in the view of many, have a significant positive influence in the region. It is probably better placed than most to promote serious regional discussion about refugee protection and could also bring resettlement nations to the table to discuss the role that increased resettlement support could play in brokering support for serious steps towards refugee protection.

Two resettlement nations which should be encouraged to consider what role they can play in improving protection standards in Asia are Canada and New Zealand. The governments in both countries have drafted legislation in the past two years to respond to perceived threats of “mass arrivals” of asylum seekers travelling by boat from Asia. The Canadian legislation, which has now been passed by Parliament, was in response to the arrival of two boatloads of Sri Lankan asylum seekers. The New Zealand legislation, which is still before the Parliament, was drafted despite the fact that no boatload of asylum seekers has ever reached the nation’s shores. If both governments perceive the threat of asylum seekers moving on from Asia to be so great that they need to respond with tough legislation, then surely both governments would be prepared to play a constructive role in supporting the development of regional measures to improve the protection of refugees in Asia, including by allocating an increased number of resettlement places and offering development assistance to local agencies working with refugees and asylum seekers.

In any effort to improve refugee protection standards in Asia-Pacific, Australia must be prepared to model the standards of protection that it believes will make a qualitative difference to the lives of refugees. This would require Australia to review the circumstances under which it uses immigration detention, its denial of work rights to some asylum seekers (and possibly some refugees) and its use of offshore processing. Mr Guterres, speaking in Australia six months before the offshore processing policy was reintroduced, commented: “Unilateral measures that divert or deflect asylum seekers away from borders do not address the deeper issues of human insecurity and protection. Unless managed carefully, they can also affect relations between states.” He went on to outline the quality of regional cooperation which he believes is required:

Genuine cooperation between Australia and countries in South East Asia must be based on principles of burden-sharing and responsibility-sharing … From UNHCR’s
unique vantage point, any regional arrangements must contain explicit protection safeguards, both in the letter of the arrangements and in their implementation. These safeguards should include, most importantly, the right to asylum and respect for the principle of non-refoulement; humane reception conditions, including protection against prolonged and arbitrary detention; and access to basic rights such as education, health care, and employment. Special support for vulnerable people, particularly children, victims of torture and trauma and others suffering from disabilities is also fundamental, as are concrete efforts to find durable solutions for refugees. 39

5.4 COMMUNITY VIEWS ON REGIONAL COOPERATION

The level of engagement in discussions on the issue of regional cooperation on refugee protection was notably higher during this year’s consultations as compared to previous years. Over the previous two years, feedback offered on this issue had been limited and largely general, with participants often asking more questions than they answered. This year, however, participants appeared to have a greater level of awareness of issues relating to regional cooperation and a significant number were able to offer specific and detailed feedback and ideas.

One of the key themes of discussions on regional cooperation was that initiatives should aim to address the root causes of refugee crises and onward movement, rather than simply responding to the issues most directly affecting Australia. Many participants advocated an approach based on improving living conditions for refugees and asylum seekers in the region, creating viable pathways to protection and securing durable solutions. This approach was seen as central not only to achieving positive outcomes for refugees and asylum seekers but also to providing alternatives to dangerous boat journeys. In the words of a service provider in Blacktown:

If they were able to come up with a system that was managed the same, so that people knew if they arrived onshore in Indonesia, Malaysia, Australia, New Zealand or wherever else, their claim would be treated exactly the same, and...they’ll be settled somewhere, then that would be the ideal situation because that gives people no need to get on a boat; it gives people no need to take risky journeys.

In general, feedback on the issue of solutions in countries of origin was limited, perhaps in recognition of the fact that this is likely to be a long-term and difficult task. As noted by an Afghan community member in Rockhampton: “The country has had war for 40 years. To stop that war is not easy...We need Australia’s help, we need America’s help, we need all of Europe and other countries’ help to stop war but finding a quick solution is impossible.” By contrast, many participants put forward suggestions for resolving issues in major refugee hosting-countries. Education and training opportunities were seen as central to providing meaningful activities for those facing prolonged exile, enhancing access to livelihood opportunities and empowering refugees with skills that would serve them in good stead regardless of whether they returned home, remained in their country of asylum or were resettled elsewhere. Permitting refugees to work legally without fear of being exploited or detained was similarly nominated as a key strategy.

One consultation participant suggested that cooperative initiatives should also focus on addressing development issues in countries of asylum, noting that host communities are often facing significant challenges of their own. This strategy was viewed as having a range of benefits, including improving living conditions for citizens of host countries, providing a more favourable environment into which refugees can integrate and helping to address negative perceptions of refugees as an economic burden.

Enhancing access to registration and refugee status determination was also viewed as crucial. Potential strategies put forward by participants included encouraging countries in the region to ratify the Refugee Convention, providing training and support to government officials in countries of asylum, providing funding to UNHCR to expand its operations and pressure countries in the region which refuse to provide access to registration processes (such as Thailand). A number of

39 Guterres, A. (2012a)
participants emphasised the need for greater efficiency in the registration, status determination and resettlement process, noting that long waiting times in often very difficult conditions are a source of great anxiety for refugees and can drive them to risky alternatives.

Constructive bilateral and multilateral engagement with other states in the region was viewed as central to the development of regional cooperation. General ideas put forward by participants included supporting development initiatives in countries of origin to enhance prospects of safe and sustainable return; providing technical assistance and financial aid to countries of asylum to build better systems of protection for refugees and asylum seekers; and engaging in international advocacy to build solidarity in addressing refugee crises and place pressure on states which fail to protect their citizens. One participant, for example, suggested that Australia use its position on the Security Council to address instability and conflict in countries of refugee origin. A number of participants also noted the need for involvement of resettlement countries in cooperative measures. Several called for New Zealand in particular to be more closely involved in the development of cooperative initiatives.

While welcoming the increase to Australia’s resettlement program, a number of participants pointed out the limitations of resettlement as a durable solution. Concern was expressed that only a tiny minority of the world’s refugees are resettled and that those lacking access to UNHCR do not have resettlement available to them as a solution. A representative of the Rohingya community noted: “Resettlement is hard because only 1% of the refugee population gets resettled every year. It is the reality. It is not going to fix [the problem]”. Some participants also suggested that Australia should offer alternative visa pathways for people seeking protection, such as through expanding the In-Country Special Humanitarian component of the Refugee and Humanitarian Program. Others suggested that Australia, in addition to providing more resettlement places, should focus on promoting other solutions for refugees. In particular, it was suggested that Australia support local integration and explore strategies for enabling refugees to reside safely and sustainably in countries of asylum.

While many participants saw the value of regional cooperation in addressing protection issues across the region, some were sceptical that an effective regional framework could be developed. Some felt that Australia’s current policy approach towards asylum seekers undermined its ability to negotiate with other countries to improve their standards of protection. Others felt that it would be unreasonable or unrealistic for Australia to expect other countries in the region to rapidly develop strong systems of refugee protection. In the words of a service provider in Blacktown: “They might have a lot of other issues that they are prioritising apart from the refugee influx”. A participant in Sydney noted:

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\text{It’s not just as easy as getting people to sign up to Conventions and then saying, ‘oh, they go, they’re signatories’…Some of the environments we’re talking about that don’t even have clear national governance structures and systems in place that are effective and don’t have enough public infrastructure to support civil society.}
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Thus, while the idea of building a regional framework for refugee protection was generally supported, participants were not blind to the challenges associated with this endeavour.

\section{5.5 SIGNS OF HOPE}

The feedback from NGOs in the region is that, even among the 15 states in South-East and South Asia which have not ratified the Refugee Convention, there are signs of hope which can be built on in an effort to improve protection. In Thailand, despite its record of refoulement and its poor performance in recognising the rights of refugees, NGOs have been able to work with government agencies over the past two years to achieve the release of many refugees and asylum seekers from immigration detention. In 2012, an executive order in India opened the way for registered refugees to gain access to long-term stay visas and the right to work in the private sector.

Building on the passing of domestic legislation in the Philippines and South Korea, lawyers and NGO representatives in a number of countries are developing draft refugee legislation in an effort
to promote discussion and dialogue. The 2012 conference of the Asia Pacific Refugee Rights Network (APRRN) was held in Seoul, enabling delegates from 19 countries to hear more detail about the South Korean law which will be enacted in July 2013. In response, APRRN members shared information on what is happening in their countries. Bills have been drafted in Taiwan and Nepal with NGOs in both countries continuing to lobby for the legislation to be considered by the national legislatures. In India, the former Chief Justice, P.N. Bhagwati, has drawn up a “model law” in collaboration with APRRN members, who are continuing to lobby the parliament to consider the law. In Pakistan, preliminary work is being done on possible national legislation on refugee protection and the prevention of detention of refugees and asylum seekers. APRRN members in Pakistan are working towards redefining the ambit of existing legal safeguards to extend greater protection to refugees, asylum seekers and stateless persons. In Thailand, NGOs are involved in the drafting of a Refugee Act as a way of advancing dialogue but recognise that it is a long-term task to get the legislation seriously considered.

In South-East Asia, NGO representatives are discussing the implications of the plan for an ASEAN Economic Community by 2015 and the greater freedom of movement that it may allow within the region. In West Africa, the regional citizenship shared within the Economic Community of West African States (ECOWAS) provides an important form of protection within the region. Regional citizenship within ASEAN, in the long run, opens up possibilities not only for greater protection for ASEAN citizens but also of a regional approach to asylum for refugees from outside the region. Other options for discussion include different models of temporary permission to remain, including the long-stay visa option now available for refugees in India.41

5.6 POSSIBLE STEPS TOWARDS REGIONAL COOPERATION ON PROTECTION

In discussions about building regional cooperation on refugee protection, RCOA is regularly asked what form this cooperation could take in a region where few nations have signed the Refugee Convention and the non-signatories seem unlikely to sign it in the foreseeable future. As noted in 5.1.3, the pressing needs of refugees are fundamental ones which do not require the host country to ratify an international convention, at least not immediately. Bilateral or multilateral discussions with a state or states should begin with discussion about how refugees’ most basic needs for security can be addressed first, with future steps to occur gradually and incrementally. RCOA suggests that the cooperation between states could include the following steps (not necessarily in this strict order and over a period of years):42

1. **Removing current barriers to existing refugee determination processes** – Hundreds of thousands of asylum seekers in the region are denied access to either UNHCR or domestic asylum systems, including many in Bangladesh and on the Thai-Burma border. A first step in advancing cooperation on refugee protection should be to remove existing barriers to asylum seekers accessing current systems of refugee status determination.

2. **Creating space for and supporting NGOs to provide vital services to refugees** – The support given to refugees and asylum seekers by small and under-resourced NGO programs is often vital to stabilising their situation in countries of asylum. Critical programs include emergency assistance, health care, education and legal representation. The development of regional cooperation should be backed up by a strategy to encourage host governments to allow NGOs to conduct this work unhindered and to gather international support, including development assistance, to enable this work to continue and to expand.

3. **Granting legal permission to remain while refugee status is determined** – A third step should be the promotion of legal recognition of asylum seekers and refugees in countries across the region, allowing people progressing through an asylum process to be given legal permission to remain in the country until their status is determined and a durable solution found.

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40 ASEAN is the Association of South East Asian Nations.


42 This is a modified version on the steps to regional cooperation suggested by RCOA in its submission to the Expert Panel on Asylum Seekers.
4. **Developing alternatives to immigration detention** – Freedom from arrest and detention is critical to building a sense of safety and security for a refugee living in an unfamiliar country. A fourth step should be to develop policies which enable refugees and asylum seekers to avoid immigration detention and to facilitate the rapid removal of those who end up being detained.

5. **Granting the right to work** – Having legal permission to work is fundamental to a refugee to survive and to live free from fear in a country of asylum.

6. **Providing access to basic government services, including education and health** – As the domestic support for refugees and asylum seekers develops, the state should be encouraged to provide access to critical government services such as education (particularly school education) and health care (both physical and mental health services). This step should reduce the pressure on UNHCR and NGOs which, in many countries, step in to provide basic services when host governments are not prepared or able to.

7. **Providing refugees with access to durable solutions** – As the process builds, host states, UNHCR and other states involved in the cooperation process would work together to assist refugees to find durable solutions – assisted voluntary repatriation (where appropriate), integration into the host country or resettlement to a third country. This regional approach to finding durable solutions would be based on a clear understanding that different countries have differing national capacities to provide long-term protection to refugees. For example, there would be recognition of the limited economic opportunities available in Indonesia, compared to greater opportunities in countries like Malaysia and Thailand and even greater opportunities in Australia.

8. **Developing national asylum legislation** – A next step would be to encourage the development of national legislation for asylum and refugee status determination, including avenues for independent review. These national systems could be based on similar models that have been developed in countries such as the Philippines and the Republic of Korea.

9. **Promoting ratification of the Refugee Convention** – With domestic legislation in place, countries could be encouraged to sign the Refugee Convention and Protocol. For many countries, this would be seen as a much smaller step if taken after legislation is in place than if taken now when no protections are in place.

10. **Building regional consistency in asylum processes** – As each nation develops its own domestic asylum and protection systems, work could begin on building greater consistency in processes across the region. The goal would be to work towards a situation where an asylum seeker would not be advantaged or disadvantaged by seeking asylum within a particular country in the region.

### 5.7 NEXT STEPS

While 2012 did see the establishment of the RSO, RCOA believes that the pace of movement on regional cooperation is too slow and that more momentum is required in 2013. Effort is needed not only to get governments more actively discussing how to work collectively to address the protection needs of refugees but also to broaden the discussion to include more NGOs and a broader range of civil society representatives. As the formal Bali Process meetings would provide only very limited opportunities for civil society engagement, it is important that additional opportunities be created for dialogue and the development of regional and sub-regional proposals to address refugee protection needs.

If the dialogue is to gain greater interest in Asia, it must move – and be seen to move – well beyond the interests of the Australian Government. The dialogue must focus not only on South-East Asia but also on South Asia, to include (among other issues) the world’s largest protracted refugee situation in Pakistan and the difficult questions associated with the flow of Rohingya refugees into Bangladesh and the Bay of Bengal. Host governments such as Pakistan and Bangladesh should be given a greater opportunity to discuss how they see the refugee situations within their borders and to outline what international support they would need to respond more effectively to protection concerns. Similarly, there is a need for greater dialogue with NGOs and
broader civil society – including community leaders, legal experts and academics – in South Asia to bring forward constructive policy alternatives.

The regional workshop on irregular migration by sea (which is being planned for March 2013) and the next Bali Process meeting (probably also in March) provide positive opportunities to increase the focus and discussion on protection needs – but only if the focus on protection is actively championed by governments such as Australia. For both meetings, active consideration should be given to including civil society experts to provide input on refugee protection concerns.

One idea worth considering to advance civil society and public dialogue on refugee protection would be the formation of sub-regional eminent persons groups in South Asia and in South-East Asia to consider ways of addressing refugee protection needs. This initiative would probably be best led by UNHCR, so that it is seen to be at arm’s length from the agenda of any specific government.

Government-NGO dialogue is also critical. The Asia Pacific Refugee Rights Network is the network best placed to coordinate regional dialogue from the NGO perspective, representing more than 100 organisations in 21 countries and having an open attitude to the engagement of NGOs currently outside its membership.

The Australian Government’s focus on capacity building of NGOs in the region is welcome and much-needed. There are pressing needs to support NGOs involved in supporting refugees and asylum seekers through education, health, legal advice, development of refugee leaders, support for unaccompanied minors, support programs for women and children, detention monitoring, programs to support release from detention and community-based alternatives to detention. In addition, there is great capacity to build stronger partnerships between NGOs across borders in the region, enabling NGO leaders with expertise to share their knowledge with NGOs in the frontline of refugee services in principal countries of asylum. For government officials in the region, there are needs to build capacity and expertise in refugee status determination and the development of detention alternatives. The Australian Government’s $10 million initial allocation to capacity building initiatives in the region, following the recommendation of the Expert Panel, is most welcome. RCOA looks forward to the Government meeting its commitment to implementing the recommendation by allocating $70 million a year to these capacity building needs.

5.8 RECOMMENDATIONS

**Recommendation 16**
RCOA recommends that the Australian Government continue to work through the Bali Process to:

a) Accelerate operationalisation of the Regional Cooperation Framework;

b) Prioritise initiatives aimed at addressing the most pressing protection challenges across the region; and

c) Foster opportunities for civil society participation, including in the activities of the Regional Support Office.

**Recommendation 17**
RCOA recommends that the Australian Government fully implement the Expert Panel recommendation to allocate $70 million a year in additional funding for capacity building initiatives in the region, with a particular focus on funding NGOs involved in supporting refugees and asylum seekers.

**Recommendation 18**
RCOA recommends that UNHCR actively consider promoting the development of sub-regional eminent persons groups in South Asia and South-East Asia to consider and promote effective responses to the protection needs of refugees.
6 OFFSHORE PROCESSING

The majority of the recommendations in the Expert Panel’s report focused on the way in which Australia fulfils its duty to provide protection to those seeking asylum onshore and, more particularly, to those seeking Australia’s protection who arrive by boat. Precipitated by an increase in the number of people arriving by boat and the tragedy of an increasing number of lives lost en route to Australia in recent years, the Panel recommended a suite of new deterrence measures aimed at shifting “the balance of risk and incentive in favour of regular migration pathways and established international protections and against high-risk maritime migration”.

Among the most significant of these measures is the reintroduction of offshore processing in Nauru and Papua New Guinea’s Manus Island. This was the first of the Panel’s recommendations to be implemented by the Australian Government, with legislative amendments to facilitate offshore processing being passed in the lower house within days of the Panel’s report being released. Changes included the removal of provisions stipulating minimum conditions which must be met if a country is to be designated for offshore processing; the addition of provisions outlining processes for and issues to be considered when making a designation; and the introduction of a requirement that designations be made through a disallowable legislative instrument. An amendment was also made to the Immigration (Guardianship of Children) (IGOC) Act 1946 to remove the Minister for Immigration’s guardian responsibilities for any unaccompanied minor transferred to a regional processing country.

6.1 THE ‘NO ADVANTAGE’ TEST

The reinstatement of offshore processing has been premised on the Panel’s “no advantage” test, which stipulates that “asylum seekers [should] gain no benefit by choosing not to seek protection through established mechanisms”. According to this test, asylum seekers subject to offshore processing who are found to be refugees will wait for resettlement for the amount of time they would have waited had they applied through “regional arrangements”. While the Government has not yet announced specific timeframes for resettlement out of Nauru and Manus Island, it has proposed that regional benchmarks for resettlement through UNHCR processes will be used to determine an appropriate “waiting time” for resettlement.

RCOA has consistently expressed concern about the profound disconnect between the assumptions underlying the “no advantage” test and the realities of the protection environment in the Asia-Pacific region and this was echoed by consultation participants across the country. The most perplexing of these assumptions is that asylum seekers who attempt to enter Australia by boat should instead have applied through “established mechanisms”, “enhanced regional arrangements” or a “managed regional system”. As noted by the Asia-Pacific Refugee Rights Network, however, “there are no orderly, consistent regional arrangements through which refugees can seek to have their status recognised or access timely durable solutions”. While the Panel’s suite of recommendations relies heavily on the development of a “managed regional system” through which asylum seekers can apply for protection, its report does not clearly articulate the form, scope or timeline for implementation of these arrangements. The “no advantage” test, as conceived by the Panel, therefore places asylum seekers in a paradoxical position: they will face indefinite exile in offshore processing facilities on the basis that they have “cho[sen] not to seek protection through established mechanisms” which have not yet been established.

The Government’s reliance on UNHCR resettlement processes to determine the “waiting time” for resettlement out of offshore facilities is equally problematic. The assumption that applying for resettlement through UNHCR processes provides a viable alternative to dangerous boat journeys...
represents a dramatic misrepresentation of the accessibility and, indeed, the purpose of resettlement. UNHCR prioritises refugees for resettlement based on need, not a queue system. Because these needs fluctuate and are constantly reassessed, it is largely meaningless to determining a fixed “waiting time” for resettlement, not to mention incredibly difficult.

This difficulty is further heightened by the fact that access to resettlement varies dramatically across the region. Based on current trends, for example, it would take over 12,500 years for all of the registered refugees in Pakistan to be resettled through UNHCR processes, not to mention the estimated one million people who are unregistered. Furthermore, many Hazara refugees in Pakistan face serious difficulties in accessing resettlement due to the precarious security situation in Quetta (see Section 5.1). In Bangladesh, the refusal of the government to cooperate with UNHCR resettlement processes has rendered this solution effectively inaccessible to the large population of Rohingya refugees currently residing there. For Sri Lankans who are still in their country of origin and thus not refugees, resettlement is impossible. Given that many asylum seekers arriving in Australia by boat previously resided in one of these three countries, logic would suggest that the “benchmarks” for resettlement out of these countries will be taken into consideration when determining the “waiting time” for resettlement out of offshore facilities. Any benchmarking model which included these countries, however, would result in refugees remaining in Nauru or Manus Island for the rest of their lives.

Furthermore, the notion that the “no advantage” test provides a means of ensuring fairness to refugees waiting for resettlement elsewhere, or to those who do not have the opportunity to seek asylum in Australia, is highly problematic. Refugees should not be considered “advantaged” if they have access to protection and assistance – for people fleeing persecution, these are rights, not privileges. Moreover, it is illogical to argue that Australia should lower its own standards of protection for refugees in “fairness” to those who do not have access to effective protection. This approach to “levelling the playing field” does nothing to improve the situation of refugees living in difficult circumstances overseas; on the contrary, it purposefully replicates difficult circumstances in an Australian context, which, unlike most countries of asylum, does not have significant underlying economic, social and security concerns.

In this year’s consultations, some participants did express misgivings that refugees who arrived by boat were able to access protection in Australia relatively quickly compared to people waiting for resettlement overseas; however, no participant welcomed offshore processing as a means of ensuring fairness to those applying for resettlement or protection through “regular” pathways. On the contrary, offshore processing was more commonly described as an unfair policy. A number of participants viewed offshore processing as a measure aimed at “punishing” asylum seekers for arriving without authorisation, rather than a means of ensuring fairness. A service provider in Blacktown commented: “They kept talking about there being ‘no advantage’ for people who arrive as IMAs and yet they’ve actually created a disadvantage. To get rid of the advantage, they’ve created a disadvantage. That’s not fair either.” Some pointed to the differential treatment of asylum seekers arriving by boat and plane as evidence of this punitive approach. Others expressed concern that offshore processing reinforced negative perceptions of asylum seekers arriving by boat as being “queue jumpers” who “take” places from people waiting for resettlement.

Interestingly, a significant number of the consultation participants who voiced clear opposition to offshore processing belonged to communities which would stand most to gain from the “no advantage” approach to asylum policy. In Adelaide, representatives from two different African communities spoke about conditions for asylum seekers on Nauru and urged the Australian Government to minimise the time spent by refugees in the facility. Similar concerns were expressed in Sydney, Melbourne, Brisbane, Darwin and Canberra by former refugees who were resettled. A Sudanese community representative expressed disappointment that the Expert Panel had “legitimised” the queue jumper myth. He also asserted that the “no advantage” test did not

46 According to the latest statistics available from UNHCR, the current size of the registered refugee population in Pakistan is 1,702,700. Over the past five years, an average of 136 refugees has been resettled out of Pakistan annually. At this rate, it would take 12,520 years for all of the registered refugees in Pakistan to be resettled.

47 Irregular Maritime Arrivals (IMAs) is a term used by DIAC to refer to asylum seekers who arrive by boat without prior visas.
relate to reality, noting that many refugees are not able to access resettlement. In Hobart, a member of the Sierra Leonean community remarked: “They are refugees. They are really not boat people. If Sierra Leone was any closer to Australia, I would just find a way for my family to come on the boats to reach Australia.”

6.2 CONDITIONS IN OFFSHORE PROCESSING FACILITIES

During this year’s consultations, many participants expressed concern about conditions in offshore processing facilities and the services and support provided to asylum seekers residing in these facilities. Many were troubled by the absence of legally-binding safeguards to protect the rights and wellbeing of asylum seekers subject to offshore processing, particularly given the limited capacity of Nauru and Papua New Guinea to provide appropriate care and support to people seeking protection. Some questions were also raised about monitoring and oversight of conditions in offshore facilities.

Recent reports from Amnesty International Australia and UNHCR on conditions in the Nauru facility seems to confirm these fears. Amnesty’s report highlighted the “harsh and repressive” physical conditions, lack of privacy, inappropriate accommodation and lack of adequate services, including legal advice and health services.48 UNHCR also expressed concerns about the harshness of physical conditions and inadequacy of reception conditions, as well as the capacity of health providers on Nauru to provide adequate support to survivors of torture and trauma.49

Many participants highlighted the lack of the infrastructure and expertise in both Nauru and Papua New Guinea as being barriers to effective service delivery. Mental health services and legal advice in particular were nominated as areas where delivering appropriate support was likely to be difficult. In relation to the latter, some participants expressed reservations about the capacity of the Nauruan legal system to competently manage refugee status determination and provide all asylum seekers with high-quality legal advice. Other participants noted that the remote, isolated location of offshore processing facilities would render visits and other forms of community support – which, in the Australian context, has been central to mitigating some of the detrimental impacts of prolonged detention – virtually impossible.

6.3 HUMAN AND FINANCIAL COSTS

Australia’s previous experience with offshore processing under the Pacific Solution has clearly demonstrated that this policy approach is highly damaging to the wellbeing of asylum seekers. People affected by the Pacific Solution were detained in remote facilities for often lengthy periods (up to six years in some cases), to the serious and well-documented detriment of their health and wellbeing. Throughout the duration of the Pacific Solution, there were multiple incidents of self-harm, 45 detainees engaged in a serious and debilitating hunger strike and dozens suffered from depression or experienced psychotic episodes.50 While it should be acknowledged that there may be some differences between the current incarnation of offshore processing and its predecessor (in that the facilities will not be closed detention centres, for example), the factors which had the greatest impact on mental health in the past – isolation, limited services and support, restricted freedom of movement, separation from family members and constant uncertainty – remain features of the current model. Indeed, these features are not merely unfortunate “side effects” but are central to the model’s underlying logic of deterrence. As such, there is little reason to believe that the significant human costs of the Pacific Solution can be avoided under Australia’s current offshore processing regime, particularly in light of the fact that hunger strikes, self-harm and suicide attempts are already occurring in the Nauru facility.

The impact of offshore processing on the mental health of refugees and asylum seekers was raised as an issue of great concern among consultation participants. Many had worked with former detainees or had themselves been detained, and expressed fears that people who spend prolonged periods in offshore processing facilities could experience the same mental health issues seen among long-term detainees in Australia. Some participants had worked with refugees subject to offshore processing under the Pacific Solution and highlighted the “profound” mental health issues experienced by this group. In the words of a participant in Brisbane:

*Nauru damaged certain people so much last time that they have never been able to hold down a job and, many years later, still need regular psychiatric treatment. Two people have already been transferred off Nauru and are currently in a psychiatric hospital. Why are we breaking people again?*

The uncertainty associated with offshore processing was seen as the critical factor influencing mental health outcomes. In a similar manner to the absence of a time limit on immigration detention in Australia, the lack of a clearly-defined “waiting time” for those subject to offshore processing was seen to create a high risk of adverse mental health outcomes, even if living conditions in offshore facilities were improved. In the words of a former Afghan refugee living in Queensland:

*When they send the people to Nauru and Manus Island, there should be a way to let them know how long they are going to stay...If you don't know what's going to happen, it's really out of control. It's very hard. At the moment, Australia is doing very good things – the asylum seekers are receiving very good health care, the asylum seekers are receiving education in detention centres which is very good, the best food that none of the Australian people can eat outside detention centres. We never can say the Australian Government is doing just bad things against asylum seekers... Just, as I say, the people who arrive in Australia, they just need an answer.*

Some concern was expressed that the indefinite wait in Nauru and Manus Island could become so intolerable that refugees may be compelled to return to their country of origin, placing themselves at serious risk. A service provider in Melbourne described this as a form of “de facto refoulement”:

*If people get placed on Manus Island or Nauru, and they stay there for maybe 10 years, then that is intolerable. They will have no choices but to stay there or go back to the country where they came from...you can be, sort of, forced to be sent back to the country that you fled from.*

A number of service providers expressed concern that the mental health impacts of offshore processing would diminish the capacity of refugees to settle successfully in Australia in the future. A service provider in Brisbane predicted that “we’re just creating a nightmare for ourselves in five to 10 years’ time when they’re all released and they all have mental health issues”. Some participants expressed similar fears in relation to the loss of basic life skills and erosion of trust in government systems resulting from prolonged exile in offshore facilities.

A number of participants at this year’s consultations expressed frustration that the lessons learned through Australia’s recent experiences with long-term immigration detention and its detrimental impact on settlement outcomes appeared to have been ignored in the reinstatement of offshore processing. One participant noted that “we’ve seen the difference between those who were detained for two or three years as opposed to those who are coming through now...we are just recreating that situation somewhere else”. Another remarked:

*The Government released people on BVEs because the situation in detention centres was having such an impact on mental health and, once people were granted permanent residence, the government then had to pay services to help people deal with picking up the pieces and putting their lives back together. So it seems to me that what the Expert Panel was designed to do – to stop people getting on boats and drowning on the way – is to deal with one issue and [they] have created another bigger issue.*
Participants expressed particular misgivings about impact of offshore processing on vulnerable groups, with the treatment of unaccompanied minors being a major area of concern. The changes to guardianship obligations for unaccompanied minors sent offshore were greeted with dismay by a number of participants and many strongly opposed the transfer of unaccompanied minors to offshore facilities. Interestingly, some consultations participants described policy changes relating to unaccompanied minors as “risky”, in that subjecting young people to offshore processing placed them at high risk of negative mental health outcomes. In other words, the policies aimed at preventing risky boat journeys were viewed as carrying significant risks of their own.

As well as the human cost, participants also drew attention to the high financial cost of offshore processing. A number of participants highlighted the far lower cost of processing asylum seekers onshore under community arrangements and described offshore processing as a more expensive way to deliver worse outcomes. Some also warned of the long-term costs of offshore processing, in that refugees who spend long periods offshore are likely to need more intensive settlement support and may seek compensation for the damage inflicted to their mental health. One service provider in Townsville questioned whether the Minister, in designating an offshore processing country as in the “national interest”, took into consideration the national interest of Australia’s economy and Australian taxpayers.

6.4 EFFECTIVENESS OF OFFSHORE PROCESSING

There was general consensus among consultation participants that offshore processing would not act as a deterrent to boat journeys. While participants were well aware of the risks associated with boat journeys and agreed that this issue needed to be addressed, offshore processing was not seen as an effective way of managing the problem. Many consultation participants drew attention to the issues which compel asylum seekers to undertake dangerous boat journeys, noting that refugees often had few viable alternatives available to them and are often facing immediate threats to their lives or freedom. In the words of a Rohingya community member:

*I would be happy to come to detention for five years in Nauru rather than staying in Malaysia with no rights, with a high risk of being arrested and getting caned or two years’ jail. I would be happier to come to Nauru and live in Nauru for five years and get settled somewhere else, rather than waiting 20 years.*

A number of former refugees and asylum seekers who had arrived in Australia by boat felt that they had been forced to make a choice between certain death in their country of origin or asylum, and a boat journey which carried a risk of death but also offered a chance to find safety and protection. As noted by an Iraqi community member in Shepparton: “if we are talking about protection of ourselves and our children, coming by boat it will be the best way for me. Because if I face the risk, it will be drowning only. If it is my country, we are facing the death every day.”

This sentiment was echoed by a number of service providers working with people who had arrived by boat. Several participants spoke of clients who were cognisant of the risks of boat journeys and even of the recent changes to Australian policy but still undertook the journey because the “push” factors were so compelling and the alternatives so limited. As noted by a service provider in Shepparton: “We know [community members] who know people in Malaysia and Indonesia who are aware of the changes, are aware…of the large numbers of people who have perished on these journeys and are still willing to take these risks”. A participant in Sydney pointed out that:

*In the regions where they are coming from there aren’t viable alternatives. UNHCR isn’t present. In Afghanistan, the address of the [Australian] embassy is not publicly known, so how do you actually apply? Where is the queue and how do they find the queue? For those who are in the queue, the process is so protracted and slow and so uncertain.*

Another service provider in Brisbane had this to say:

*I think people in the government should go and be a refugee somewhere, for them to experience whether the policies they are putting in place would deter people from coming here. It is a desperate situation. Whatever we do here is not going to change...*
any perception. These people have got kids behind who are not safe where they are, so that is why they are taking all of the risks. Imagine if someone is getting on a fishing boat to come to Australia in this big ocean, what else do you think they will fear? Nothing.

One of the key weaknesses of offshore processing, as articulated by many consultation participants, is its failure to address the root causes of flight and onward movement. In general, the real problem as identified by participants was the risks faced by refugees in countries of origin and asylum in the region, with boat journeys seen as a symptom of this broader problem. As summed up by one service provider: “People want to live in their own homes without being killed rather than having to run away so that they don’t get killed. We’re trying to fix it at the wrong end.”

6.5 BROADER IMPACT OF OFFSHORE PROCESSING

Many consultations participants expressed concern that the reinstatement of offshore processing and deterrence-based policies in general could have negative impacts beyond the individuals directly affected by these policies. Participants in several consultations conveyed deep dissatisfaction with the toxic nature of the asylum policy debate and the role of Australia’s political leaders in politicising refugee and asylum issues. The re-emergence of deterrence-based policies, the lack of positive political leadership and the repetition of slogans such as “stop the boats” were identified by many participants as having a significant impact on the negative media portrayal of refugees and asylum seekers. The revival of offshore processing in particular was seen as a contributing factor to negative public sentiment towards asylum seekers.

Some participants expressed frustration that asylum and refugee policy was being distorted and reframed by some politicians and media outlets as a national border protection issue instead of a humanitarian concern. Promoting an alternative view of humanitarian arrivals as incredibly resilient and willing to contribute to Australia in so many ways was viewed as a difficult challenge in such a volatile political environment. As noted by a service provider in Rockhampton:

It’s difficult when you’ve got a government saying: ‘Let’s put them somewhere else and make it someone else’s problem’. It’s really hard to then convert the bulk of the population to say: ‘Actually, it is our responsibility. It is about human rights’. How do you counter that at a local level?

Feedback from the consultations suggested that myths and misinformation about refugees and asylum seekers appeal to and tap into an underlying racism in Australian society and create new artificial divisions between refugee communities. A service provider from Dandenong, who has been involved with refugees for decades, said he was horrified to hear people in the community referring to “good refugees” and “bad refugees”. A service provider in New South Wales said that, in response to public perceptions about what is given to refugees, settlement services were told not to deliver services to refugees that Australian citizens did not receive. “This makes it difficult to provide the things people need to settle,” he said.

A number of participants felt that offshore processing could have a negative impact on protection standards across the region, arguing that Australia was setting a “bad example” for other countries. Some asserted that the deflection of Australia’s responsibilities to poorer nations with far less capacity to provide protection to refugees was unjust and disrespectful. Others noted that, through eroding protections for asylum seekers arriving by boat, the Australian Government also undermined its capacity to promote greater respect for human rights in the region. In the words of a service provider in Hobart: “If we are going to have any meaningful seat at the table, we need to be able to be respected. And I think that a lot of what we are doing around refugees diminishes any kind of credibility of moral force because we don’t walk the talk at all.”

6.3.1 Other recommendations on asylum policy

Aside from offshore processing, the Expert Panel also put forward a number of other recommendations relating to asylum policy, such as reinvigorating the Malaysia transfer
agreement, excising the Australian mainland from the migration zone, and considerations for turning back boats in the future. While feedback was sought on all of these recommendations, discussions on changes to asylum policy were generally dominated by the issue of offshore processing, with little feedback was offered on other deterrence and disruption measures.

Of the issues which were discussed, there was strong opposition to the idea of turning back boats at sea, which was viewed as a dangerous and high-risk approach. Some participants raised concerns about the exploitation of asylum seekers by people smugglers and the need to target these criminal operations. A few expressed fears, however, that current deterrence and disruption measures aimed at people smugglers could compound the risks faced by asylum seekers. In the words of a service provider in regional Queensland:

_We say we don’t want people drowning here. But in fact, what we are saying is: ‘If you bring your boat here, you’ll be put in jail and your boat will be destroyed.’ So in fact, what we’re making sure is that the only boats that come here are the ones that aren’t seaworthy or aren’t worth anything, and that there’s no decent captain on the boat because they’ll be arrested. So in fact our policies are leading people to drown._

Some consultation participants raised concerns about the communication of information regarding recent changes to asylum policy, particularly in relation to materials produced by DIAC to promote the “no advantage” test and sent in bulk without prior notice to settlement services. It was felt by a number of participants that these resources had not been distributed appropriately and were not effective communication tools. One service provider, for example, related this incident: “I said to one client: ‘Here, do you want a free DVD?’ and he said ‘What’s that for?’, and I said ‘To stop your brothers and sisters and friends from getting on boats’, and he threw it in the bin.” Another participant noted: “There was no consultation process. How effective is it? Is it going to achieve the purpose it is supposed to achieve by sending it out without any direction?” A service provider in a regional area reported that she had been sent resources on the “no advantage” test despite the fact that none of the refugee entrants settling in the area arrived in Australia by boat.

### 6.6 RECOMMENDATIONS

There is no question that the appalling loss of life resulting from dangerous sea journeys to Australia necessitates an urgent and considered policy response. Feedback from consultation participants, past experience with similar policies, advice from organisations working in the region and RCOA’s own research all suggest that offshore processing is neither an appropriate nor effective way of addressing this issue.

The essential weakness of the Expert Panel’s approach is that it recommends the concurrent implementation of policies which are mutually exclusive. On the one hand, the Panel argues that the development of a comprehensive and sustainable regional framework for improving protection and asylum systems is essential to providing alternatives to dangerous boat journeys. On the other, it advocates the lowering of Australia’s own standards of protection in a manner which is likely to have serious implications for the health and wellbeing of people seeking asylum, most notably through offshore processing. Australia cannot credibly promote the former while simultaneously implementing the latter. It cannot encourage other countries to develop better national systems for status determination and protection while modifying its own legislation to remove key protections for asylum seekers. It cannot advocate for more humane treatment of undocumented asylum seekers and refugees while implementing policies which penalise asylum seekers who arrive in Australia without authorisation. It cannot endorse in-country solutions for refugees living elsewhere in the region while its own policies prioritise and favour resettlement and denigrate onshore protection. It cannot expect countries which have not signed the Refugee Convention to take greater responsibility for refugee protection while deflecting its own Convention responsibilities to neighbouring states.

It is important to note, however, that should offshore processing prove effective in discouraging dangerous boat journeys, it would still not represent an appropriate strategy for addressing this issue. Past (and present) experience has unequivocally demonstrated the destructive impacts of
prolonged exile in remote offshore processing facilities, both in terms of individuals’ mental health and their prospects for successful settlement in Australia or elsewhere.

These costs are particularly difficult to defend given that offshore processing ultimately undermines the only viable way forward, which is to work tirelessly and incrementally towards a sustainable and constructive regional framework for cooperation on refugee protection. Such a framework cannot be successful, however, so long as Australia continues to model policies which, if implemented by other countries in the region, would have disastrous consequences for people seeking protection. It is essential that Australia fundamentally reorient its policy approach to ensure a primary focus on achieving positive protection outcomes for all people fleeing persecution.

**Recommendation 19**
RCOA recommends that the Australian Government abandon offshore processing of asylum seekers who arrive by boat and return to a single statutory system of onshore processing for all asylum seekers, regardless of their mode of arrival.

**Recommendation 20**
Should Recommendation 19 not be implemented, RCOA recommends that the Australian Government develop the following as a matter of urgency:
   a) Clear criteria and timeframes for resettlement from offshore processing facilities;
   b) Improved mechanisms to protect the rights and wellbeing of people subject to offshore processing, including basic infrastructure, legal advice and guardianship arrangements for unaccompanied minors; and
   c) Arrangements for independent monitoring and oversight of status determination and resettlement processes and conditions in offshore facilities, including avenues for seeking resolution of or redress for any identified issues of concern.
7 PATHWAYS TO PROTECTION AND SETTLEMENT

7.1 OVERVIEW

*The ground keeps shifting. The ground is like quicksand.* – Service provider, Hobart

The past 24 months have seen numerous legislative, policy and program changes to the processing system and pathways to protection for asylum seekers who arrive by boat to Australia. Some of the major changes, including the expansion of community detention, the shift to one refugee status determination process (since reversed) and the release of asylum seekers from closed immigration detention into the community on bridging visas, have provided a welcome opportunity for Australia to observe the practical impact of alternatives to closed immigration detention on settlement pathways.

The recommendations of the Expert Panel on Asylum Seekers have resulted in a return to offshore processing and an uncertain future for the onshore processing of asylum claims. While RCOA’s consultations were conducted before the implementation of the “No Advantage” test to onshore processing of protection claims for people who arrived in Australia on or after 13 August 2012, the feedback received on community-based processing in 2012 is useful in understanding how people have fared under the current programs (and will continue over the coming months) and in understanding what challenges may be expected under this new policy.

7.2 APPLICATION OF THE “NO ADVANTAGE” TEST

The Minister’s announcement on 21 November 2012 of the onshore application of the “no advantage” test for asylum seekers who arrived by boat on or after 13 August 2012 was widely viewed among RCOA members as one of the lowest points in Australian asylum and refugee policy in many years. As highlighted in Section 6, significant concerns have been raised about the “No Advantage” principle more broadly, and its application to asylum seekers within Australia is just as troubling. Of particular concern are the:

- Lack of work rights for asylum seekers for the duration of the assessment of their protection claims, including uncertainty if work rights will be granted to people found to be owed protection;
- Return to a non-statutory process for the primary assessment of protection claims;
- Indefinite wait for the grant of a Protection Visa for those found to be a refugee;
- Lack of family reunion options during the refugee status determination process as well as in the years after recognition of refugee status but before the grant of a Protection Visa;
- Threat that asylum seekers and refugees face of removal to an offshore processing country at any time, even if they have been found to be refugees; and
- Minimal supports to be made available to people while they live in the community.

7.3 COMMUNITY PROCESSING

In October 2011, the Government announced its intention to transfer large numbers of asylum seekers, refugees and stateless persons out of closed detention into the community on to bridging visas, pending the resolution of their claims. From November 2011 to September 2012 (when RCOA’s community consultations began), nearly 5,000 asylum seekers who arrived by boat were moved from detention on to Bridging Visas. In addition, the past two years has seen a significant expansion in the community detention (CD) program, from 25 places in October 2010 to around 1,650 in September 2012. In reflecting on the community release of asylum seekers, two consistent messages came out of consultations:

- Firstly, that the opportunity for people to live in the community while their protection claims are assessed instead of being held in closed detention centres is a positive and welcome move by the Government; and
- Secondly, that the current system of protection processes and programs supporting asylum seekers is unnecessarily complex, incredibly confusing and could be improved significantly.

A number of service providers commented on the artificial and complex nature of current asylum policy, from the detention system to the community-based programs. There were consistent calls for a simplification of the systems, whereby the focus of the program would be centred on the people seeking protection and a holistic approach taken to supporting them to resolve their status.

A number of consultation participants called for a system based on the current mainstream service delivery platforms (e.g. Centrelink and Medicare) instead of setting up separate, parallel and complex programs.

A consistent message at the consultations was the piecemeal nature of the Community Detention (CD), Community Assistance and Support (CAS), Asylum Seeker Assistance Scheme (ASAS) and Humanitarian Settlement Services (HSS) programs. The different entitlements and even rights among asylum seekers were noted as confusing for the organisations providing services but most of all for the clients themselves. As one service provider from Tasmania put it:

They may be the best of friends. They probably are. They’ve probably known each other for months living in the community and then suddenly one is allowed this [and] one is not allowed that. This creates a lot of difficulty for us [the service provider] because it is seen that we’re making that decision. It’s not a happy way to start your settlement process. It creates a lot of distrust with service providers as well.

Many participants spoke about how different entitlements and levels of access to services can have a profound impact on a person’s ability to live in the community and to settle well. It also causes challenges for service providers, as the trust required to establish a relationship is compromised if a client feels that the system is unfair, inequitable and discriminatory. Service providers and clients must also navigate the confusing and differing eligibility requirements for each distinct support program. A number of consultation participants felt that the anxiety and confusion caused by piecemeal programs continued even after someone is granted a Protection Visa. Many felt that an integrated approach to service delivery for all asylum seekers would not only help clients to settle but also ensure that agencies delivering supports are able to better manage and possibly even increase their workload.

### 7.4 COMMUNITY DETENTION

As the expansion of the Community Detention (CD) program began over two years ago in October 2010, participants in this year’s consultations were able to provide a longer-term perspective on the operation of this expanded program. Overall, community detention was welcomed by many former refugees and service providers as a desirable alternative to closed detention. As one service provider in Adelaide put it: “Living in the community in CD brings a sense of belonging to people.”

A number of consultation participants across the country noted improvements in CD, noting that many of the gaps in services and coordination issues had been at least partly addressed in 2012. A regional Victorian service provider, for example, reflected that although CD had had initial “teething problems”, there was now a much better handover for unaccompanied minors after the grant of a Protection Visa. The service provider said that that was more time to develop a plan for the young people and to assist them in their transition.

Conversely, transitions for children, unaccompanied minors and young people were raised in other consultations as areas that require particular attention. A number of services identified gaps in transitional arrangements for young people exiting community detention, highlighting concerns that “the current transition arrangements do not always provide the support that young people need at a time of heightened vulnerability”. Agencies providing care to young people also emphasised that transitional care plans often lack important information in relation to support needs, including mental and physical health requirements.
Not all of the feedback on community detention was positive, with several service providers worried that prolonged time in CD was leading to an escalation in frustration for clients. A Melbourne service provider observed that “people on bridging visas at least have the hope of work, even if they do not get it. In CD, there is no prospect of work and little to do”. There were numerous calls for the extension of work rights for people held in CD.

7.5 BRIDGING VISA EXPANSION

This year’s consultations occurred approximately 12 months after the Government began to expand the use of bridging visas and transfer large numbers of asylum seekers, refugees and stateless persons out of closed detention into the community, pending the resolution of their claims. Consultation participants were asked to provide their observations and feedback on how the expansion of community release of asylum seekers was tracking, both from the perspective of funded and unfunded service providers and from individuals who had been, or were currently on, bridging visas. Much of the feedback RCOA heard centred on transition issues, the sustainability and adequacy of support services, and employment, English language training, housing and health-related issues. A number of case studies of successful programs and partnerships targeting bridging visa holders were also shared. The following provides an overview of this feedback.

7.5.1 Transitions into the community

A significant proportion of those that were initially released on to bridging visas had been held in remote detention centres for prolonged periods, many for well over a year. Several hundred of these men had been detained for over two years, and the impact of this prolonged restriction on liberty in remote locations without indication of release was discussed in many consultations. While some particularly vulnerable long-term detainees were released into community detention, most were granted bridging visas and expected to transition into the community within the designated six weeks. Across Australia, RCOA heard consistent messages about the dire effects that prolonged immigration detention has had on people (see also Section 7.7). Both service providers and former detainees described that initial period after release as “grim”, with one Melbourne service provider saying: “People are in a comatose state when they are first released after long-term detention.”

Many participants spoke about the impact of detention on a person’s ability to function in the community as profound. An experienced service provider in Sydney advised:

We have had a doubling of numbers coming to our service in this financial year, mostly ex-detention. Their mental health needs are significantly higher, with over 45% of people categorised as extremely high risk. We are seeing PTSD [post-traumatic stress disorder], suicidal tendencies, and chronic depression. The way it manifests itself in long-term detainees is different; they experience anger and their ability to function in simple matters is impaired. Even a simple task like showing a client where the bank is causes a level of anxiety and anger that we have not experienced in the past.

These sentiments were echoed at other consultations, with service providers noting that many former detainees struggle with an inability to undertake simple tasks, as their memory, capacity to absorb information and think through the outcomes of their decisions is impaired. As one participant said: “The fact that you have detained someone, preventing them from being able to support themselves, will undermine the skills and confidence they had when they came here. Their skills and expertise have been eroded by the time it takes to get a visa grant. It takes time to rebuild it.” The process of leaving closed detention and transitioning to the community was described by one Brisbane service provider as “coming out of a black hole”. Another noted that: “People leaving detention are confused, even if they have spent a relatively short period of time there. It is often taking the full six weeks [of funded CAS-Transitional support] just to get people to the ‘start line’. Then they are expected to go on their own.”

The expectation that bridging visa holders become self-sufficient and live independently within the first six weeks after release from detention means that minimal support is available after the transitional period. There was a general recognition in consultations from those supporting asylum
seekers on bridging visas in the community that significant gaps exist that undermine a person’s ability to make this transition, including:

- Lack of support to prepare for and find employment;
- Lack of access to English language training (although there is a small pilot for work-ready English tuition underway);
- Lack of ongoing orientation into the community;
- Limited access to timely and appropriate mental health services;
- Limited educational and training opportunities; and
- Lack of access to household goods and material aid provisions.

Several service providers were puzzled by the Government’s call for asylum seekers to adapt and adjust to Australian life, while simultaneously restricting their right to work, to have identity documents and to study. As a service provider in Sydney observed:

_They are put on Bridging Visas, and they don’t know anything about the culture. Their English is very poor, so when they go out there, they’re paralysed. Unless you have someone in the community who can help you in terms of finding a job, finding a place to live, or to translate for you, you’re basically a dead duck. You don’t have those skills to be able to survive._

Service providers in Sydney and Melbourne were particularly concerned for people transitioning from prolonged detention on to bridging visas. Several consultation participants called for bridging visa holders to automatically transition to CAS-General. There was concern that this group of clients was still vulnerable and that the time it takes to get someone on to CAS could leave them suffering in the community. There was also frustration among service providers that DIAC held a wealth of information about clients’ needs but that the support agencies in the community had to spend much of their time and resources gathering evidence to demonstrate eligibility for particular programs. As one NSW provider said: “Surely DIAC could recognise the needs of these people after years in detention? There should be automatic transition or referral of high-needs clients through to CAS.” This burden on service providers to gather evidence of a client’s eligibility for CAS was raised at several consultations. They shared that clients are often paranoid about giving details on their illness or struggles, as they identify the service providers as agents of government. In their minds, it is “the government” who has made them unwell by holding them in remote detention or delaying the outcome of their protection claim.

This need to invest resources in early intervention and upfront services was echoed in relation to the broad implementation of initial support services through the CAS-Transitional and ASAS programs. As a community member in Parramatta reflected:

_The first 12 months is critical in a person’s settlement. But people living in the community with only minimal support when they are on BVs... If we are going to have people living in the community, we need investment in settlement straight away, not delayed. The logic for this is that regardless of whether people go back home or stay, they are learning skills that will help them and may even help them make the decision to go back home._

There were repeated calls of the need to approach support for bridging visa holders through a holistic settlement framework and to refocus the program on proven indicators of good settlement: access to education, English language training, employment, orientation and housing. A former refugee from NSW felt that many asylum seekers and later refugees would face an experience of settlement without the structure that is normally accorded to that group, saying: “We haven’t factored in the costs, suffering and other the long-term implications of people living in the community in their early years in Australia with minimal support.” A settlement provider in the ACT echoed this sentiment, pointing to programs for bridging visa holders being in stark contrast to the norms and practices of the Australian resettlement program and services framework:
There is this new expectation that someone coming out of detention could suddenly become self-sufficient within six weeks. It is almost a US-style policy. After working in the settlement sector for 20 years, it seemed to me that all the benchmarks had suddenly changed. And there are people in the community who fall for this, saying: ‘We’re going to get people jobs in six weeks’. There are a lot of dangers in this.

7.5.2 Employment

Consultation participants in every state and territory spoke about employment as the issue that posed the greatest challenge for asylum seekers on bridging visas. While there were consistent and strong messages about the willingness and readiness of asylum seekers to work, this was not matched by their ability or, in some cases, entitlement to find work. Many people called for a well-defined and strategic policy framework related to employment services for asylum seekers underpinned by the right to work. As one former refugee from Melbourne said:

People need to find jobs. If the government wants to benefit from the refugee community, the government needs to provide a clear strategy for the employment of people from refugee backgrounds. Then there will be no need for providing donations or for Centrelink. It doesn’t make economic sense to do this without a plan.

Feedback from consultation participants in both metropolitan and regional areas highlighted concerns about a lack of awareness among employers about bridging visa holders’ right to work. From Darwin to Sydney, participants shared their frustration that employers did not understand, recognise or accept bridging visas as a valid visa for work. Some people felt that this was due partly to ignorance and partly to unwillingness on the part of the employers to take on people on temporary visas for whom they cannot see a future in the organisation or company. As one former refugee from Iran put it: “The Government assumes there are willing employers for asylum seekers but there are not.” A number of service providers identified an issue with DIAC’s Visa Entitlement Verification Online (VEVO) system for employers seeking to check the status of BV holders, with some people with work rights not appearing on the system. The need for education and better messaging to employers and industry bodies about the entitlements to work, skills and opportunities presented by asylum seekers was raised in consultations in the Northern Territory, Western Australian, New South Wales, Queensland and Victoria.

While most bridging visa holders are entitled to access Job Services Australia (JSA) limited Stream 1 support, the feedback from current and former bridging visa holders and service providers across the country was that this is entirely insufficient for someone to be able to secure work. That is, JSA Stream 1 is designed for job seekers with minimal disadvantage and most asylum seekers on bridging visas in reality face significant disadvantage. As one NSW service provider said: “People on CAS-Transitional are not getting any practical support to find employment from JSA. They can be registered but they don’t get any practical assistance”. One benefit of registering with a JSA provider that was noted in consultations is that the person receives a Job Seeker ID that can assist in convincing an employer that they are permitted to work. Unfortunately, RCOA also heard a number of examples of asylum seekers attempting to register with a JSA provider and not being issued an ID.51

While CAS-Transitional, ASAS and CAS-General support staff are not funded to provide intensive employment support services, RCOA heard that many are trying to play an informal brokerage role to fill this gap. Finding supportive employers who were willing to hire asylum seekers, however, was a difficult task for many workers. One Darwin-based service provider suggested that some employers may be prepared to taken on asylum seekers if they had more than Stream 1 JSA support.

When asylum seekers are able to find employment, there was concern raised that many face unsuitable or exploitative working conditions. Service providers in the Northern Territory and

51 RCOA has since heard that to address this issue, more recently released bridging visa holders will receive a Job Seeker ID directly from Centrelink. This is a welcome shift. Concern remains, however, for the asylum seekers who still have been unable to obtain the ID.
Queensland, for example, shared their clients’ fear that complaining about working conditions not only would hurt their chances of work but would also negatively impact their application for protection. As one former refugee put it: “I would prefer to work for $7 an hour than not at all.”

A number of service providers advocated for an asylum seeker-specific employment support service, citing the unique challenges for these jobseekers associated with seeking protection. An example of a specialist model of intensive training in the Australian workplace that couples specialised vocational education and training with support through the refugee status determination process is the Asylum Seeker Resource Centre’s (ASRC) Asylum Seeker Service for Employment and Training (ASSET) program in Melbourne (see case study).

### Case study: Asylum Seeker Service for Employment & Training (ASSET) Program

ASSET is the ASRC’s training and recruitment program. The specialist service has:

- **Casework services** – This intensive one-on-one employment advisory casework supports asylum seekers to overcome barriers by building structured pathways to employment.
- **An Education advisory and advocacy unit** – The unit develops education and training pathways to employment. This includes approaching education providers to resource low fee and fee-waiver tertiary courses.
- **A Reverse Marketing Unit** – The unit utilises professional networks to develop partnerships with employers to create conduits to employment for asylum seekers.
- **The ASSET Cleaning Link** – This social enterprise matches skilled asylum seekers with people requiring domestic cleaning and gardening services.
- **The Job Club** – This group training program provides a space for clients to meet regularly for support and guidance in locating and applying for employment.
- **A Work Experience Unit** – The unit resources and provides structured work experience programs within local businesses to equip asylum seekers with hands-on Australian experience.
- **A Job Search facility** – An intensive job search and application service for job ready asylum seekers.

### 7.5.3 English-language provision

The issue of English language provision for asylum seekers on bridging visas is closely associated with the challenges associated with employment. As one Victorian service provider said: “Upon release from a short time in detention, all [the asylum seekers] talk about is finding a job. People are often job ready except for English. Employment support without English language training equates to no job prospects.” Feedback on the recently-established pilot for English language training for asylum seekers on bridging visas (a total of 45 hours of tuition) focused on the inadequacy both in the number of hours and the number of people who have access to the program. One service provider in Victoria advised that the pilot contact hours are equivalent to one week’s full-time English training and this is wholly insufficient, saying it is “not enough English to go and try to get yourself an apartment”.

The limited contact hours in the pilot were viewed as inadequate to empower people to have even basic command of the language in order to participate in society and in the workplace. As one former refugee working in Darwin reflected: “Many people on BVs are people with specialist expertise who can contribute to the Australian workforce but language is a barrier for them. People on bridging visas need to be given the option of up to 510 hours of AMEP, like people with permanent visas.” Consultation participants in every state and territory echoed this call for access to AMEP, as well as funding for community groups to provide tailored English language training. As one service provider in Melbourne observed: “Not providing English means there is a barrier to getting a job and to self-sufficiency. That means people will rely on income support. If they settle in Australia, they will rely on Centrelink.”

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52 See [http://www.asset.asrc.org.au](http://www.asset.asrc.org.au)
7.5.4 Housing
Finding appropriate, affordable accommodation was talked about as a major challenge for asylum seekers on bridging visas and the services supporting them in every state and territory. Consultation participants in Perth, for example, shared stories of people paying rent as high as 80% of their income. Service providers in other states and territories spoke about clients paying 50% to 70% of their income on rent, living in overcrowded share accommodation that jeopardised relationships between tenants and real estate agents, and living in entirely inappropriate accommodation (such as garages and in caravans). Many consultation participants lamented the lack of suitable and affordable housing for asylum seekers, who are at an extreme disadvantage among a whole range of other disadvantaged low-income groups.

7.5.5 Health
A number of service providers spoke about difficulties for bridging visa holders in accessing adequate health care. A Queensland provider noted that people who are vulnerable have difficulty accessing basic health services such as finding a bulk-billing GP who will use an interpreter. While people on bridging visas have access to Medicare, they do not have a Health Care Card to provide access to discounted medications. A health worker gave the example of a client who required anti-depressants but struggled to pay for them. It was suggested that, as a consequence, some people are going on and off medication, putting their health at significant risk.

Issues concerning the appropriateness of health referrals for bridging visa holders coming out of detention were also raised in several consultations. While settlement services are provided with referral information from detention centres indicating physical health information, they are not always given information on experiences of torture and trauma. Some felt this may be because of the simplistic nature of the health questionnaire administered prior to release or because of the unwillingness of some clients to disclose traumatic experiences for fear that it could impact on their protection claim. Services providers were worried that they are not able to provide a full mental health assessment and treatment plan without prior knowledge of past or in-detention health issues. As one service provider put it: “We need to know about depression, medication, even suicide attempts that can be given to GPs as soon as they arrive for referrals. DIAC should have a duty of care to give the information from the detention centres for service providers.” A Victorian service provider gave the example where “clients may have been on medication for one or two years. If their needs are not picked up early enough, they can go into a full-blown withdrawal…and we’ve been seeing that.” One healthcare worker suggested that people should have proper health portfolios when they come out of detention.

Case Study: Delivering healthcare to asylum seekers
South Eastern Melbourne Medicare Local, Southern Health and the Australian Red Cross have combined efforts to address the increase in the number of asylum seekers arriving in south eastern Melbourne. This region’s collaboration saw the implementation of a screening and triage model and a pathway to healthcare embedded into the orientation sessions provided by the Australian Red Cross. These sessions involved migration support staff, administrative staff, refugee health nurses, allied health clinicians, GPs, specialist doctors and interpreters. This commitment and strategic responsiveness has ensured timely and appropriate access to health services for asylum seekers.

7.5.6 Material aid and public transport
The lack of material aid provisions for asylum seekers on bridging visas was raised at several consultations, with reports of people struggling to acquire mattresses, warm clothing and sufficient food. Of particular concern were reports of asylum seekers going without food, an issue that was raised at several consultations. Community members and service providers attributed this to a combination of inadequate income support, a lack of awareness among some community members of how to access material aid and the pressure to send remittances to families trapped in dangerous places with no other means of support. Many participants suggested that the current policies and programs were directly related to people not having sufficient money to buy enough food for themselves. Furthermore, since the increase in community placements of asylum seekers, no agency has received increased funding for emergency relief support or material goods. This has
resulted in increased pressure on mainstream emergency relief agencies. It was noted that allocation of FaHCSIA emergency relief funds is based on Local Government Area (LGA) data however asylum seekers are not included in this data collection and reporting.

The need for asylum seekers on bridging visas to be able to receive public transport concessions was raised in Queensland, Western Australia and NSW. Service providers highlighted the fact that resolving protection applications requires a lot of travel and most clients struggle to pay full fare on their limited income. This also occurred when people were placed in homestay arrangements that were far from services. The lack of transport concessions also reportedly impacted on people’s ability to attend free, community-run English classes in Perth.

7.5.7 Community-based asylum seekers

Agencies that assist asylum seekers who have no other means of support have seen an increase in the number of people seeking assistance since the shift to expanded community processing. That is, basic provisions and material aid like food banks, clothing or transport tickets, as well as some counselling services, casework, accommodation and employment support, are offered by charities and NGOs not funded by the federal government. In the past, many of these services have worked predominantly with asylum seekers in the community who arrived by air. The expansion of community release of asylum seekers from detention has, however, resulted in increasing demand and has meant that these unfunded agencies are struggling to find the resources and capacity to support their clients.

A number of agencies working with this group of community-based asylum seekers (“non-IMAs” or air arrivals) – many of whom are particularly vulnerable and facing destitution – voiced their concern that this group is being pushed even further to the margins. As one service provider lamented: “We want to make sure that they are not forgotten… this other group that has always existed and continues to exist… they’re never on the radar.”

7.6 SERVICE PLANNING, COORDINATION AND CAPACITY BUILDING

The different entitlements and programs for asylum seekers and refugees mean that confusion is created among clients and service providers. As one Riverina service provider put it: “We want to provide good, effective services but this system makes it very difficult.” Service providers across the country highlighted the need for improvements in the planning and coordination between and among services. As one Brisbane service provider said:

*Timing is really important for delivering certain parts of settlement. For those in CD or on BVs, there may be restrictions about where they can and can’t go but once those provisions are lifted, there’s no commitment to that same provider, so you lose data. Their personal history is lost and you can’t access it.*

The question of how to best facilitate good, regular communication across all of the departments, agencies, organisations and communities working with asylum seekers and refugees was raised as a priority in the consultations. The need for open communication between providers was listed as essential to a holistic program, particularly so clients do not have to repeat their story endlessly.

What works?

A key component of successful programs was a recognition that the groundwork needs to be laid now when people are on bridging visas in order to develop their understanding, skills, and overall ability to settle, particularly if they are granted a Protection Visa. Early intervention models for everything from healthcare to accommodation support to legal advice to job-seeking assistance were considered the most favourable sort of approach. Active partnerships were also highlighted a vital to the success of a program. For example, integrated service models or hub systems in Victoria, Queensland and Western Australia were noted as excellent ways to deliver services, with schools, healthcare, social workers and multicultural liaison officers made available to clients in one easily-accessible space.

53 In 2011-12, there were 7,036 Protection Visa applications lodged by people classified as “Non-IMA”. With the addition of cases continuing from past years, there is a considerable number of community-based asylum seekers.
At many consultations, issues were raised about service capacity more generally. Several participants noted that there seemed to be a two-tiered system operating: one for publicly funded agencies and one for unfunded community agencies, saying that publicly funded agencies were better informed and placed to plan resources to meet the needs of people but, even so, much of the work was falling to the unfunded groups. Service providers (both funded and unfunded) noted that the expectations on CAS and ASAS providers were extremely high and that the expected workload and outcomes were unrealistic within the existing time and funding constraints. Loath to leave vulnerable people without support, service providers are often pushing themselves above and beyond their contractual arrangements. For example, while ASAS providers are supposed to deliver only “light touch support” to bridging visa holders, feedback suggested that this was almost impossible for people coming out of detention. This has meant that agencies are often providing additional services or seeking to build relationships with other providers in order to make referrals, with many reporting that workloads were not sustainable or conducive to ensuring the best possible outcomes for clients.

Given the growing number of agencies and individuals providing support and services to asylum seekers in Australia, there was recognition among consultation participants that sector capacity building is required. Some even suggested the need for training and information sessions for agencies with a track record of working with asylum seekers because of the large number of new workers. An organisation involved in delivering training to Community Detention workers reported that “it is critical to ensure that workers receive the necessary training and support to meet the often high and complex needs of unaccompanied minors living in community detention”.

A number of consultation participants expressed the concern for the capacity of settlement services to be able to cope with the increasingly complex needs of Protection visa holders, many of whom have developed complex needs because of their experience with the Australian asylum system. Some participants called for a review of funding and models for the Settlement Grants Program, AMEP, Complex Case Support and other services to better meet the support needs of asylum seekers found to be refugees and granted protection.

Some consultation participants also suggested that DIAC staff receive regular professional development. One service provider in NSW reported speaking to a DIAC caseworker who had reasoned that if a client is on medication, he is being treated and should be able to find a job (and, therefore, should not eligible for additional support services).

### 7.7 CLOSED DETENTION

*For those of us [who] come to seek asylum in Australia and stay here for two to three years in a detention centre, the biggest issue [that we] think about is our families because we know our families are living in a war zone. You are in the detention centre and you are not even allowed to go outside and you cannot do anything for your family. You cannot even do something for yourself, so how can you support your family?*

— Afghan community member

While the Australian Government has moved to release asylum seekers into the community through the expanded community detention and bridging visa programs, the policy of mandatory detention means that people who arrive by boat are still held in closed detention while initial health, security and identity checks are completed. DIAC seeks to undertake these initial checks – and if cleared – release people on to bridging visas within 90 days of their arrival. However, as of 31 December 2012, there were 923 people detained in immigration detention who had been there for over 365 days, including 591 who have been detained for over two years. A number of people are in closed detention and will not be eligible for community release through CD or bridging visas because of adverse security screenings, ongoing investigations or delays in other assessments. To

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date, there has been no indication from the Government as to what will happen to those people facing closed detention for the remainder of their lives.

A number of participants in RCOA's consultations raised their objection to the policy of mandatory detention for people seeking protection from persecution. Participants spoke about the detrimental effects of detention and expressed disbelief as to why the practice continues, particularly given the robust evidence that exists about the negative impacts. For example, a healthcare provider noted that the long-term stress and anxiety caused by prolonged detention and uncertainty manifests itself physically: “Their bodies start to break down. They develop ulcers and all kinds of physiological problems. Mentally, they are reliant on psychotropic medication.” A support worker in Queensland remarked:

> People come into detention as fit, intelligent, healthy human beings. Two-and-a-half years later, they come out broken men, completely institutionalised and dependent on everything being provided for them. I've dealt with refugees who have spent 25 years in Kakuma and, within six weeks of arrival in Australia, they are completely independent. This is in opposition to people who have spent 2½ years in detention, and after release, are still six months later reliant on settlement services to support their needs. They were intelligent, fit men before they went in but they come out broken.

The sense of brokenness and institutionalisation that prolonged detention causes was echoed in almost every consultation in every state and territory. Consultation participants provided examples of this institutionalisation, with one Melbourne service provider concerned that even needing something simple like a blanket could lead to self-harm. Another support worker noted that, as people have to earn points through participation in activities in detention facilities in order to buy phone cards and other items, once released they ask: “How can I earn points?”

For many, it is not simply the denial of liberty in detention that contributes to difficulties once a person is released into the community. The movement of people from one detention centre to another, often with little or no warning or explanation, was also spoken about as having detrimental impacts. As one service provider in south-western Sydney observed: “Our clients didn’t have a chance to feel settled anywhere and, now that they are trying to settle in the community, they are finding it even harder.”

A number of former detainees gave insight into what it was like to live in detention, with one Afghan refugee from Queensland upset that people did not fully understand the effect that detention has, saying:

> Each day of being in a detention centre is like one year in jail. At least in jail you know you have committed a crime and you will be in prison for 10 years, 15 years, 20 years. But in detention you don’t know what will happen after one hour. I’ve been out of the detention centre a year now but even now when I think about it, that situation, the suffering in the detention centre, my whole body just – I lose my mind and my control… That was a really bad time that I had in a detention centre, a really bad time. …When I start thinking about the people being there for two years – the first thing I start thinking about is the mental issues… It takes another ten years for that person to get to a normal situation.

The agencies working with people in detention and those released from prolonged detention have repeatedly spoken about the trauma that they observe often being attributed more to their detention experience than from their pre-arrival experiences. Furthermore, a former refugee who worked in detention centres observed that the mental health services in detention centres do not meet the needs of detainees. He reflected:

> People’s psychology is related to their background and their history. All doctors and psychologists employed at the detention centres are Australian and don’t understand the life and culture of the clients. The things they say to clients are often patronising. I think that DIAC should employ psychologists from the same cultures as the clients.
They can find guards and cooks from all cultures but they can't find psychologists of similar cultures.

While people face time in detention, it was suggested that there is scope for a better framework and delivery of education, skills training and orientation. A former refugee in the Northern Territory suggested that Australia could either build on the skills that people already possess or provide training for people while they are held in detention. He said: “Even if they don’t stay in Australia, they’ll go back to their country with more skills.”

7.7.1 Children in detention

Many participants at this year’s consultations highlighted major concerns about the continued and prolonged detention of children by the Australian Government. As at 31 December 2012, there were 1,221 children held in closed detention facilities – in Alternative Places of Detention, Immigration Transit Accommodation and Immigration Residential Housing (refer to table 6). While the expansion of CD was welcomed, many participants were worried that the Government was backing away from its commitment to release children from immigration detention facilities.

Table 6: Children in immigration detention and detention alternatives, 31 December 2012\footnote{DIAC 2013.}

<table>
<thead>
<tr>
<th>Numbers of children in different detention and housing arrangements</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Immigration Residential Housing</td>
<td>39</td>
</tr>
<tr>
<td>Immigration Transit Accommodation</td>
<td>38</td>
</tr>
<tr>
<td>Alternative Places of Detention</td>
<td>1,144</td>
</tr>
<tr>
<td><strong>Total number of children in closed detention facilities</strong></td>
<td>1,221</td>
</tr>
<tr>
<td>Children in the community under Residence Determination (community detention)</td>
<td>732</td>
</tr>
<tr>
<td>Children in the community on Bridging Visa E (BVE)</td>
<td>90</td>
</tr>
<tr>
<td><strong>Total number of children in detention alternatives</strong></td>
<td>822</td>
</tr>
</tbody>
</table>

A number of people who participated in the consultations made regular visits to the detention facilities where children are held and spoke about reports of self-harm and attempted suicide among children as young as 12. They divulged that, while families arriving in detention facility are initially relieved to be safe, within the space of a few months their hope dwindles, and even young children become depressed and can start to harm themselves. Concerns were raised that living in an environment where people are self-harming is enough to damage a child’s mental health and sense of wellbeing.

7.7.2 The impact of detention on settlement

Participants at the consultations this year remarked that, among the people granted Protection Visas onshore (sub-class 866), there were observable differences between those who spent long periods of time in closed immigration detention and those detained for shorter periods. Several consultation participants were happy to report that the shorter the period of detention, the higher the level of autonomy, engagement and agency among asylum seekers found to be refugees. As a NSW settlement support worker noted:

> We have seen the impact on people of being held in immigration detention; people who have been granted 866 visas after two years [of detention] come out and they are damaged. They have an inability to make decisions, to do day-to-day things. The impacts are significant. Those that are released after less than 90 days of detention are able to adjust must faster.

Consultation participants spoke about people released after prolonged detention being “damaged” and exhibiting trauma symptoms such as an inability to sleep, as well as attention-seeking and challenging behaviours. As one service provider in Queensland noted:

> The good thing we have seen is that there are less mental health problems now because people aren’t spending as long in detention centres. Twelve months ago, we
were seeing some pretty severe issues. The shorter duration of detention equates to less frustration on the client part. Long-term detained hold a sense of injustice that permeates all of their interactions. The smallest thing can set off a person. They feel that they are treated unfairly. The long-term detained are institutionalised, asking: ‘Miss, may I go here?’ The shorter detained ask: ‘Where can I get a job?’.

A South Australian service provider noted that community detention instead of closed detention also led to better settlement outcomes:

We’ve seen individuals under the CD program being able to interact with other community members and the integration process for those individuals becomes much quicker... By the time they go through the normal HSS and SGP process after the determination of their visa status, they have substantial information about what’s going on in the community. They already have made friends and networks within the community, they know the available services and they can enjoy all the services available, and they are linked with their own respective communities, unlike a person who is coming from closed detention who is starting from scratch.

The impact of detention on a person’s ability to settle well was particularly stark for young people and unaccompanied minors. A Western Australian healthcare worker stated that there was an observable difference between young people spending shorter periods of time in closed detention before being released: “This is most dramatic in relation to unaccompanied minors. Before, they arrived as ‘damaged goods’ with such suffering. Now the boys are happy and joking with us.” A Sydney-based provider illustrated the impact of clients spending longer or shorter periods of time in detention in relation to their critical incident reporting data: the intensity and incidence of reporting for unaccompanied minors was significantly higher – approximately three times higher – for those in detention compared to those in the community. They noticed a significant difference in how the young people reacted to everyday situations depending on how long they had spent in detention or facing a protracted refugee status determination process.

7.8 SECURITY ASSESSMENT PROCESS AND DETENTION

During the consultation period, a number of RCOA members expressed concern about the situation of refugees facing prolonged indefinite due to adverse security assessments. There are now over 50 refugees (including children) who remain in this situation with no prospect of release in the foreseeable future. Many have already been detained for a number of years and are experiencing acute mental health issues. With the prospects of third country resettlement appearing increasingly unlikely for this group of refugees, it is imperative that the Government explore alternative mechanisms for resolving their situation.

RCOA acknowledges that the Government has already taken steps to enhance review of ASIO decision-making through the appointment of an Independent Reviewer to assess adverse security findings made against refugees. As a non-statutory process, however, the Independent Reviewer model cannot provide a consistent or long-term solution to the lack of procedural fairness in decision-making on security assessments. RCOA is also concerned that the non-binding nature of the Independent Reviewer process may hamper its capacity to effect meaningful outcomes. To this end, RCOA encourages the Government to reconsider extending the mandate of the Administrative Appeals Tribunal to include adverse security assessments made in relation to Protection Visa applicants.

It is important to note, however, that enhanced review processes alone will not necessarily resolve the situation of all refugees subject to adverse security assessments, as the reviewer may uphold the original finding. As such, there is a need to explore alternative community-based arrangements for individuals who are found to pose an ongoing security risk.

RCOA believes that the most appropriate option for resolving the status of refugees subject to adverse security findings would need to be determined on a case-by-case basis. We note, however, that Australia already has in place a suite of options to manage risks to the community
through its immigration detention network and Bridging Visa regime, with the level of surveillance, freedom of movement and reporting required varying in accordance with the nature of the risk. RCOA sees no reason why a similar risk-management approach could not be applied to individuals who have received negative security findings. We encourage the Government, as a matter of urgency, to explore alternative arrangements to prolonged indefinite detention for these individuals.

7.9 THE REFUGEE STATUS DETERMINATION SYSTEM

The Government’s establishment of a single, statutory refugee status determination system was welcomed across the country at this year’s consultations. These consultations were held before the announcement that a non-statutory process would be re-introduced for people who arrived by boat on or after 13 August 2012 and are seeking protection. As the re-establishment of a separate non-statutory process for primary assessments was not yet announced during the community consultations, the feedback from participants reflects the one system or, importantly, the legacy of the old Refugee Status Assessment (RSA), Independent Merits Review (IMR) and Protection Obligations Determination (POD) processes.

Consultation participants shared a number of stories about asylum seekers facing continual hurdles in trying to prove their cases and the inconsistency in decision-making. One support worker disclosed that a young man at the non-statutory review stage of the process had provided evidence on request from a pastor and a doctor about his experiences of torture but was again asked for further evidence by the decision maker. The young person was despondent, saying: “The only further evidence would be from the people who abducted me.” A number of community members who had experienced the POD and IMR processes shared their observations of a lack of consistency in decision-making, with one Afghan community member saying: “In detention, I knew lots of people from the same village who were facing the same issues and yet, some people get visas in months, while some took over 2½ years. Nobody knows why.”

The timeliness of decisions – or lack thereof – was consistently raised by both community members and by legal and support service workers across the country. Several consultation participants noted the stress and anxiety that waiting for a decision causes, as well as the challenges that asylum seekers face in understanding where they are within the process. Even people that started as healthy, well-engaged clients can end up disengaging from services or school or even communication with friends as they wait for extended periods of time for a decision on their protection claim. As one support worker put it: “You see a steady decline as people go further on in that process, even though we’re seeing people at a later stage are often quite successful in that process. They need time to recover from that sinking experience”. DIAC commissioned Sue Tongue to conduct a review of the POD process, and her subsequent Review of refugee decision making within the current POD process was publicly released in October 2012. Recommendations from this review reflected community concerns about the efficiency and timeliness of the decision-making and, as there may be a return to the POD process for asylum seekers facing the “No Advantage” test, these recommendations are highly relevant.

7.10 RECOMMENDATIONS

Recommendation 21

RCOA recommends that the Australian Government streamline and consolidate existing support programs for asylum seekers into a holistic, consistent and client-driven service delivery framework, based on the following core principles:

- A central focus on the needs of the client;
- Equal access to services and support regardless of status or mode of arrival;
- Adopting a settlement-centred model focused on outcomes such as employment, education, English language tuition, housing and orientation;
- A focus on early intervention to ensure the best outcomes for clients;
- Safeguards to prevent destitution and ensure resolution of all cases;
- Basing support services on existing service delivery platforms (such as Medicare and Centrelink) where possible, to avoid unnecessary administration and duplication; and
• Inbuilt mechanisms to facilitate regular communication between all departments, agencies, organisations and communities working with asylum seekers.

**Recommendation 22**
RCOA recommends that the Australian Government review and streamline transition processes for refugees and asylum seekers moving through various stages of status assessment, with a particular focus on supporting vulnerable groups such as long-term detainees and unaccompanied minors.

**Recommendation 23**
RCOA recommends that the Australian Government support asylum seekers to secure employment through:
  c) Enhancing provision of employment support and other relevant services (such as English language tuition); and
  d) Working with employers to raise awareness about the entitlements of Bridging Visa holders, the value of workforce diversity and strategies to support employees from refugee backgrounds.

**Recommendation 24**
RCOA recommends that the Australian Government, in consultation with relevant service providers, develop a strategy to support capacity-building amongst groups providing support to asylum seekers in the community.

**Recommendation 25**
RCOA recommends that the Australian Government maintain its commitment to using detention only as a last resort and for the shortest possible time by working to further reduce the amount of time spent by asylum seekers (particularly children) in closed detention facilities.

**Recommendation 26**
RCOA recommends that the Australian Government work towards resolving the situation of refugees subject to negative security assessments by:
  c) Establishing a statutory review mechanism for security assessments made in relation to Protection Visa applicants; and
  d) Exploring alternative community-based arrangements to prolonged indefinite detention for these individuals.
8 KEY AND EMERGING ISSUES

Settlement challenges and gaps in services and support were again key topics of discussion at this year’s consultations, as was discussion on public discourse about refugees and asylum seekers in Australia. The following section provides an overview of both ongoing and emerging issues raised by community members and service providers. These issues were not canvassed in detail at each consultation, but were raised in the context of RCOA asking participants generally if there were “any other issues or concerns relating to refugees and asylum seekers that you think the Refugee Council of Australia (RCOA) should be advocating on?”

8.1 SETTLEMENT CHALLENGES

8.1.1 Employment

With regard to the main settlement challenges facing refugee communities in Australia, employment issues were raised as a primary concern across the country. As one community member in Darwin put it: “The issue of employment is crucial to all of us. As refugees, we don’t want to continue with handouts. We want to work.” Ongoing frustration was expressed by many community members about the lack of recognition of the skills and qualifications that refugee and humanitarian entrants bring to Australia and how these could and should be recognised and utilised more effectively. Examples given included: doctors working as cleaners, packing shelves at supermarkets and driving taxis, someone with a Masters degree from an Australian university working in a service station, and people with many years of overseas experience working in trades being unable to secure an apprenticeship. As the community member from Darwin goes on to say: “The country says it has a skills shortage. I have come here under the government’s organised resettlement scheme. It would make sense for the government to equip us with the skills to fill those shortages. It is grossly unfair that the government is importing people to fill skills gaps while we are unemployed and very willing to learn and to work. The refugee stigma is there.” Or, as another community member in Logan (Qld) put it: “If, as a doctor, I have to drive a taxi just to survive, it’s hopeless. Yes, I can buy my food, my clothes, but that is not the potential in me.”

A key gap that was identified in consultations in Darwin, Sydney, Coffs Harbour, Logan, Brisbane, Wollongong and Adelaide was the need for more interventions targeting employers. Many people spoke about the need to create incentives for employers to get involved, citing Indigenous or disability employment schemes as useful models for replication with refugee entrants. The need to improve employment support services to better meet the needs of refugee and humanitarian entrants who have limited Australian work experience was also raised at a number of consultations. This concern applied to both Job Services Australia providers and some apprenticeship organisations that “don’t actually help the clients to get a job”. One community member in Brisbane suggested that a skills audit be undertaken of those coming through the refugee and humanitarian program in order to better identify where bridging courses were needed and to better link skills with opportunities, saying: “We have a most uneducated, uninformed view of refugees being at ground zero and we have not recognised the skills that they bring with them and the life experience and the work experience.”

Due to the lack of opportunities for refugee and humanitarian entrants to apply their skills, experience and determination in the Australian labour market, a number of consultation participants raised concerns about the precarious nature of employment that is being undertaken and the risks involved in this. For example, one service provider in Brisbane felt that recently arrived humanitarian entrants were being injured at work because “they don’t really have the language skills to work safely”. Some people spoke about exploitation or the potential for exploitation of refugees and asylum seekers who are desperate to work. Others said that community members were starting their own small businesses because of their lack of success in finding other employment and, while this can be seen as beneficial, many “don’t have the skills to run it and manage finances, employing people, marketing the business” and there was a need for targeted training for communities in this regard.
8.1.2 Housing

The ongoing crisis of affordable and appropriate housing and the challenges experienced by refugee and humanitarian entrants in securing a suitable place to live was again a key area of concern across the country. As one community member in Blacktown said: “Getting an appropriate house is a big issue. This is something that can empower people. If you have a roof and stable accommodation, you can think about doing other things”. Or, as another community member in Darwin simply put it: “If we are not working, how can we expect to afford private housing?”

The lack of affordable housing, housing services that can support refugee families to find appropriate accommodation, and the lack of low-cost housing stock itself were the main issues raised in consultations. This was of particular note in areas with alarmingly low vacancy rates in the private rental market, significant populations of low income families (of which refugees and asylum seekers are one sub-group) and extremely long waiting lists for public housing. As one service provider in Dandenong describes: “It’s not just housing affordability; it’s the housing itself. We’re seeing some refugees who are 15 people in a 3-bedroom house. The conditions that they are living in are quite appalling. There are sometimes five people in a bedroom or in a lounge room. We’re accommodating them in caravans and rooming houses. People are living in garages and sheds and all kinds of unsavoury accommodation.”

The implications of housing stress on refugee and humanitarian entrants included financial hardship (“People are paying 80% of their income on their rent”), social isolation as people move further and further out of cities, overcrowding, single people and larger families living in inappropriate housing situations and homelessness.

8.1.3 Education and training

Key issues pertaining to education raised at this year’s consultations included the ongoing gaps in appropriate pathways for refugee young people in education and training, significant challenges for education providers in supporting unaccompanied humanitarian minors (UHMs) and the need for better links between education, English and employment initiatives for new arrivals with limited education and literacy.

With regards to refugee young people in education and training, a number of service providers in different states spoke about the variation or lack of targeted programs in schools once students have left intensive English programs. In Victoria, for example, services spoke about the ad hoc way in which funding is being allocated to targeted programs and the significant resource gaps that exist in some schools with larger populations of refugee background students. Attention was drawn particularly to young people of post-compulsory school age with a history of disrupted education, with one regional service provider in Victoria saying that cuts to TAFE funding have disproportionately affected entry level courses that are better suited to these students and that this was “going to lead to issues for young people” further down the track.

Some service providers raised concerns about the challenges for schools in engaging UHMs who are disengaging and dropping out and reportedly engaging in high risk behaviours. As one service provider in Dandenong said: “Our schools are not funded to cope with these students. Schools have done their best with the resources that they have, but... they are disengaging and dropping out, and then they don’t have sufficient education to get into the employment market and they will remain unskilled and disengaged....”

A number of community members spoke about the need for better links between education, English and employment skills, particularly where someone has had very limited education prior to settling in Australia. As a community member from Hobart asked: “Why can’t we look at the contribution humanitarian arrivals can make to Australian society by teaching them English related to a certain type of job that they can do? If someone was a painter before they arrived, why can’t they match that person with a painter here to learn the language of the job?” A number of other
consultation participants also raised the potential of on-the-job English training as better suited to some people than formal English classes held in educational institutions.

8.1.4 Health

Service providers in Sydney, Melbourne, Brisbane and Townsville raised a number of concerns about health issues for recently arrived refugee and humanitarian entrants and the capacity of existing services to meet needs. In particular, some participants felt that public health services were already stretched and having trouble meeting the needs of local communities and that increased settlement in some regions of people with particularly complex health and mental health issues was creating a situation where needs were not being adequately met. For example, one community health service provider in Melbourne said that: “We work on priority demand tools, and every one of our clients is a priority client, so how do you then prioritise?” Even targeted refugee health services are being stretched and services in Melbourne and Sydney spoke about the volume of need growing faster than can be accommodated within current resourcing.

One other health-related issue that emerged this year was concern about the lack of men’s health workers and services to address the particular needs of a large and growing group of men (mostly Protection Visa holders) who have been separated from their families. As one service provider commented: “They are not taught to do cooking and so rely on takeaway food and it affects their health. They are generally not taught those skills… It affects particularly those groups where the males come out first.”

8.1.5 Unaccompanied humanitarian minors

Echoing earlier comments about the specific needs of unaccompanied humanitarian minors (UHMs) in education, a number of service providers raised particular concerns about the issues faced by a growing number of unaccompanied young people who have settled through the onshore program. As one service provider in Melbourne described: “There needs to be further investigation about the settlement needs of this group of young people (which we acknowledge are complex and diverse), and identify specific needs or changes to settlement services.” For instance, one consultation participant in Dandenong identified a key issue for UHMs being in relation to income support:

The other issue for unaccompanied minors is that they exit care at 18 and, if they want to remain in education, the youth allowance is unliveable. If you live with your family you can probably live on it, but it’s absolutely liveable [for these young people]. $200 a week and average rent in this region is $120 to 160 for a young person in some sort of share arrangement, but where is their money for public transport, for food, for utilities, for anything else? It’s just not there.

8.1.6 Identity documentation

Two issues concerning identity documentation were raised at separate consultations this year. The first relates to refugees who arrive with documents that have incorrect names and dates of birth and who are either fearful or unsure of how to fix it. This concern was raised in consultations in regional Victoria and regional New South Wales. As highlighted in RCOA submissions in previous years, the reasons why people end up with incorrect information on their official documents include both human errors made at the time of registration overseas and because people may have been fearful of giving particular information to officials at different points of their refugee journey. As one Iraqi community member in Victoria said: “We didn’t give the right information when we applied for protection visas because we don’t know what kind of security we will get. We are not sure about confidentiality, so we didn’t give the true information. Now I am facing a problem because the information that I gave to immigration is different from the information I’ve got in my ID and on my birth certificate, my date of marriage, my date of birth, my real name and I don’t know how I can solve this problem.” Knowing how to rectify information on official documents was identified as an issue for attention.
One service provider raised a concern about the implications of people on bridging visas losing their travel document and the processes for replacing them, as this is their only form of identification. In addition, some State agencies reportedly are not recognising a travel document, even though the person has been in Australia for four or five years with that document as their primary identification.

8.2 SETTLEMENT SERVICES AND PLANNING

8.2.1 Settlement planning

Closely linked to many of the settlement issues identified above was a call for better settlement planning overall and with particular reference given to Federal, state and local government coordination and engagement. As one service provider in Newcastle said: “We lack any forward planning. We don’t know who will be settled in Newcastle. When you’re a government department and trying to get funding for programs, you have to be able to justify it. We get no forward notice of people coming into the area.” Another service provider in Melbourne said: “The biggest issue is the relationship between Federal and State government and where is the commitment to funding any health services from a DIAC perspective? It’s been left to state-funded health services to pick up all the pieces.”

The implications of the lack of planning or coordination regarding settlement patterns was highlighted in a number of consultations. One of the key concerns was that services (many of which are state- or local-government funded) are not being resourced to meet the needs of growing populations of new humanitarian settlers. As one service provider in Dandenong lamented:

> Everyone around here wants to help and support refugees that come to the region, and that’s part of the feeling of frustration: that we’re overloaded and we can’t provide the support that we want. But without additional funding and the expansion of services, we can’t. It is morale reducing for service providers themselves. They feel powerless to do the work that they want to do with this cohort, and being forced into a situation of having to choose the most needy of the needy. That’s awful.

A number of consultation participants did acknowledge and welcome the potential of a National Settlement Framework to facilitate better planning and coordination, and pointed to the past effectiveness of mechanisms such as state settlement planning committees that have since fallen apart.

8.2.2 Settlement services

Some issues were raised in this year’s consultations in relation to funded settlement services. One concern was a frustration with the lack of referrals for Complex Case Support (CCS) being accepted by DIAC and the narrow definitions being used to assess these referrals. As one service provider in Sydney said: “...if people are rejected for CCS, we still need to deal with those issues. We are expected to coordinate the support to individuals and families with complex needs but we struggle to find the time to do so.” A related concern was about the capacity and resourcing of Settlement Grants Program (SGP) funded services, with client loads for some workers being reportedly high and the complexity of issues being dealt having significant implications for worker capacity. This particularly related to SGP-funded migration support services (see also the family reunion section of this submission).

A range of issues were raised concerning orientation for new arrivals. Many of these concerns have been documented in RCOA’s previous submissions and included:

- The need for the Australian Cultural Orientation (AUSCO) program to build more realistic expectations around accommodation (“They could make the option of sharing houses more well-known. They used to show flashy waterfront properties instead of the reality of what they will encounter.”);
• The need for more legal education to be emphasised in AUSCO and then repeated in on-arrival orientation, with emphasis on laws related to driving cars and riding bikes, gender equality (including the equal rights of men and women including to education and employment), marriage and domestic violence; and
• The need for attendance at orientation to be compulsory for both men and women and include older children (“This should be a settlement requirement stated before their flight or settlement from a detention centre.”)

8.2.3 Regional settlement

With 20 consultations held in regional areas this year, many service providers and community members spoke about the benefits and challenges of regional settlement. In terms of benefits, a number of participants spoke about the great potential as well as under-utilisation of regional areas as refugee settlement locations, citing employment, housing, lower costs of living and welcoming communities as key drawcards. Services in regional Queensland, New South Wales and Victoria all lamented the lack of resettlement numbers being referred to regional centres in recent years and their willingness (and capacity) to do more. A number of services spoke particularly about the effectiveness of prioritising Woman at Risk visa holders for settlement in regional locations where they can “feel safe and don’t get lost within the system. We can help them get a good start”. Representatives from the Karen community also spoke about the positive experience of regional resettlement (“Experience is that regional resettlement for Karen refugees seems to work better than resettlement in large cities”). However, all encouraged greater direct community involvement in planning and implementing regional settlement initiatives.

One key concern raised was the lack of engagement of regional settlement workers in DIAC consultation processes and in the development of refugee policy and planning. As one participant said: “Sometimes only one regional representative is at [DIAC] teleconferences and often there are technical problems with the line so they can’t really engage... This is different to teleconferences in other sectors (e.g. education) where there is greater representation of regional bodies.” In Brisbane, one service provider called for broader level of planning for regional settlement.

8.2.4 Involvement of refugee communities in settlement service provision

As in previous years, many community members called for the greater engagement of refugee communities themselves in settlement service provision and planning. As one community member in Darwin put it, the Government “should be involving people of refugee background with the experience of what refugees have gone through to help the service providers to identify the real needs. A lot of service providers don’t feel what it is really like to be a refugee. People who are qualified within the refugee community should be in key roles.” Or, as a member of the Bhutanese community in Sydney argued: “The Government could also ask the [refugee] community organisations: ‘What can you do?’” A further recommendation was that, in the contracting of settlement services, it should be made mandatory for providers to be working closely with refugee community organisations: “The service providers should be able to demonstrate how they have worked on different empowerment programs they have started, not just delivering services.”
9 APPENDICES

9.1 FACE-TO-FACE CONSULTATION LOCATIONS

<table>
<thead>
<tr>
<th>Capital city</th>
<th>Regional</th>
</tr>
</thead>
<tbody>
<tr>
<td>ACT Canberra</td>
<td>Coffs Harbour (2), Riverina (teleconference), Newcastle (2), Wollongong (2)</td>
</tr>
<tr>
<td>NSW Blacktown (2), Parramatta (2), Campbelltown, Sydney CBD, Liverpool</td>
<td></td>
</tr>
<tr>
<td>NSW</td>
<td></td>
</tr>
<tr>
<td>NT Darwin</td>
<td></td>
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<tr>
<td>QLD Brisbane (2), Logan (2)</td>
<td>Rockhampton (2), Townsville (4)</td>
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<td>SA Adelaide (2)</td>
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<td>TAS Hobart (2)</td>
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<tr>
<td>VIC Melbourne CBD (3), Werribee (2), Dandenong (2)</td>
<td>Shepparton (3), Geelong (3), Ballarat</td>
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<tr>
<td>WA Cannington, Mirrabooka, Perth</td>
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9.2 ORGANISATIONS CONSULTED

The following is a list of the organisations and community groups which participated in RCOA’s national consultations or contributed ideas directly. The organisations which hosted consultation gatherings or teleconference hubs are italicised.

4walls (Qld)  
Access Community Services (Qld)  
African Community Council of the NT  
African Seniors and Elders Club (Qld)  
Ahmadiyya Muslim Association of Australia (SA)  
Aitkenvale State School (Qld)  
Albury Wodonga Volunteer Resource Bureau (NSW)  
AMES (Vic)  
Amnesty International (Qld)  
Anglicare (NSW, NT)  
Armidale Sanctuary Humanitarian Settlement (NSW)  
Association for Services to Torture and Trauma Survivors (WA)  
Association of Bhutanese in Australia (NSW)  
Association of Hazaras in Victoria  
Asylum Seeker Resource Centre (Vic)  
Asylum Seeker Welcome Centre (Vic)  
Asylum Seekers Centre (NSW)  
Australian Baha’i Community (NSW)  
Australian Catholic Migrant and Refugee Office (ACT)  
Australian Coalition to End Immigration Detention of Children (NSW)  
Australian Red Cross (ACT, NSW, NT, WA, Vic, Qld)  
Australian Refugee Association (SA)  
Australian Taxation Office (WA)  
Balga Senior High School - Intensive English Centre (WA)  
Ballarat Community Health (Vic)  
Ballarat English Language Centre (Vic)  
Ballarat Multicultural Council (Vic)  
Ballarat SHARE Network (Vic)  
Baptist Care (SA, Vic)  
Barrier Reef Institute of TAFE (Qld)  
Barwon Health (Vic)  
Blacktown Women’s and Girls’ Health Clinic (NSW)  
Boambee East Community Centre (NSW)  
Bounce C8 (Vic)  
Brigidine Asylum Seekers Project (Vic)  
Burmese Rohingya Association in Queensland  
C2C Housing (Qld)  
Callaghan College Wallsend Campus (NSW)  
Canberra Refugee Support (ACT)  
Care Connect (NSW)  
Catholic Diocese of Townsville (Qld)  
CatholicCare (NSW, NT, Vic)  
Centacare (Qld, Tas)  
Central Queensland Medicare Local  
Centre for Human Rights Education, Curtin University (WA)  
Centre for Multicultural Youth (Vic)  
Charles Darwin University (NT)  
Circle of Friends (Vic)  
City Libraries, Townsville (Qld)  
City of Greater Dandenong (Vic)  
City of Monash (Vic)  
City West Water (Vic)  
Coffs Harbour Health Campus (NSW)  
Communicare (WA)  
Coalition for Asylum Seekers Refugees and Detainees (WA)  
Communities for Children (Qld)
<table>
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<tr>
<th>Organisation Name</th>
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<tr>
<td>NT Council for Human Rights Education</td>
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<tr>
<td>Office of Multicultural Affairs and Citizenship (Vic)</td>
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<tr>
<td>Open Minds (Qld)</td>
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<tr>
<td>Oromo Community Association (SA)</td>
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<td>Oromo Support Group Australia (SA)</td>
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<td>Penola House (NSW)</td>
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<td>Phoenix Centre (Tas)</td>
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<td>Playfair Visa and Migration (NT)</td>
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<tr>
<td>Polytechnic West (WA)</td>
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<tr>
<td>Primary Care Connect (Vic)</td>
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<tr>
<td>Queensland African Communities Council</td>
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<td>Queensland Department of Communities</td>
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<td>Queensland Fire and Rescue Service</td>
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<td>Queensland Health</td>
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<tr>
<td>Queensland Program of Assistance to Survivors of Torture and Trauma</td>
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<tr>
<td>Queensland Rohingya Community</td>
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<td>Queensland Transcultural Mental Health Centre</td>
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<tr>
<td>Queensland University of Technology</td>
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<tr>
<td>Refugee Resettlement Committee, St John's Catholic Parish, Kippax (ACT)</td>
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<tr>
<td>Relationships Australia NT</td>
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<tr>
<td>Rockhampton Diocese Catholic Social Justice and Sustainability Commission (Qld)</td>
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<td>SA Refugee Health Network</td>
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<td>Sanctuary Australia (NSW)</td>
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<td>Serco Immigration Services (NT)</td>
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<td>Settlement Services International (NSW)</td>
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<td>Shelter SA</td>
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<td>Soroptimist Townsville (Qld)</td>
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<td>South East Local Learning and Employment Network (Vic)</td>
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<td>South East Metro Crime Prevention and Diversity Unit (WA)</td>
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<td>South Metro Public Health Unit (WA)</td>
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<td>Southern Cross University (NSW)</td>
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<td>Southern Health (Vic)</td>
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<td>Southern Migrant and Refugee Centre (Vic)</td>
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<td>Spectrum Migrant Resource Centre (Vic)</td>
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<td>Springvale Monash Legal Service (Vic)</td>
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<td>St Andrew's Anglican Church (Qld)</td>
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<td>St Anthony's Family Care (NSW)</td>
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<td>St Vincent de Paul (NSW)</td>
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<td>Survivors of Torture and Trauma Assistance and Rehabilitation Service (SA)</td>
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<td>SydWest Multicultural Services (NSW)</td>
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<td>TAFE Illawarra - Wollongong Campus (NSW)</td>
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<td>TAFE NSW Hunter Institute</td>
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<td>TAFE South Western Sydney Institute (NSW)</td>
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<td>Tanzanian Community Association of South Australia</td>
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<td>The Hills Holroyd Parramatta Migrant Resource Centre (NSW)</td>
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<td>The Salvation Army (NSW, Vic)</td>
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<td>Townsville City Council (Qld)</td>
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<td>Townsville Intercultural Centre (Qld)</td>
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<td>Townsville Multicultural Support Group (Qld)</td>
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<td>Townsville State High School (Qld)</td>
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<td>Townsville-Mackay Medicare Local (Qld)</td>
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<td>UnitingCare Burnside (NSW)</td>
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<td>UnitingCare Cutting Edge (Vic)</td>
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<td>University of Adelaide (SA)</td>
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<td>University of Ballarat (Vic)</td>
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<td>Vertana Hispana (Spanish Window) Inc (Vic)</td>
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<td>Victoria Police</td>
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<td>Victorian Cooperative on Children's Services for Ethnic Groups (VICSEG) New Futures</td>
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<td>Victorian Department of Education and Early Childhood Development</td>
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<td>WAYSS Ltd (Vic)</td>
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<td>Western Bulldogs SpiritWest (Vic)</td>
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<td>Wodonga City Council Settlement Program (Vic)</td>
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