



AUSTRALIAN DEMOCRATS RESPONSE
TO THE ALP REFUGEE AND ASYLUM SEEKER POLICY

The ALP released its new refugee and asylum seeker on the 2nd December 2001. The Australian Democrats have assessed the policy and would like to comment on a few crucial aspects.

The Pacific Solution, which Labor claims to have scrapped, is built on the premise of deter detect and deny. The legislative framework that institutes this premise consists of the seven migration Bills passed September 2001, supplemented by two migration Bills passed in 2002.

The Australian Democrats remain concerned that the ALP asylum seeker and refugee policy retains the legislative framework which underlies the Pacific Solution and like the Coalition policy is based on the policy of deter, detect and deny.

Under the scaremongering heading of “**Better Protecting Australia**”:

The refugee and asylum seeker policy for the ALP will have:

“An Australian Coastguard: A \$600 million cop on the beat 24 hours a day seven days a week

- The policy details the reason for the coastguard as ‘growing threats from people smuggling, gun runners, drug smugglers, illegal fishing and, terrorists’. In the Democrats view this statement reinforces the myth that asylum seekers are a threat to Australia.

“A Green card” to ensure that illegal workers are not stealing Australian jobs.

- The Democrats have always argued that refugees and asylum seekers do not come to Australia to steal our jobs. They come to save their lives. Illegal workers and visa over stayers should not be part of a refugee policy.

“Tougher policing and harsher penalties to smash people smuggling rings.

More Australian Federal Police to work in Indonesia. Harsher penalties including 20 year gaol terms and million dollar fines for people smugglers.

- There is no explanation regarding the unprecedented, ALP supported, mandatory sentencing for people smugglers and the possibility of the 20-year term replacing the current 5-year mandatory sentencing.

“ Treat asylum seekers who arrive by air in the same way as those who arrive by sea. “ This is not reflected in the ALP policy. The ALP is proposing to send those who arrive by sea to Christmas Island, but has not outlined doing the same thing to those who come with or without documents by air.

- In this case we can only assume they will still be detained onshore. Those who are detained onshore within the migration zone will be able to access legal avenues of appeal including access to lawyers, human rights organisations etc. Those processed on Christmas Island will be processed outside of the Australian legal system.
- The policy document explains this by telling us that an estimated 60,000 people in Australia have overstayed or breached their visas. Half are working illegally so ALP will crack down on them. The Australian Democrats reiterate that people who breach visa condition and don't claim asylum are people seeking protection, and should not be included in this policy document.

Under the heading “ **Treat asylum seekers with decency.**”

“ Mandatory detention: ALP advocates releasing children, women and unaccompanied minors.

- Not only is the coalition already doing this but also the HREOC hearings into children in detention have heard witnesses give evidence that if detention is bad for women and children it is just as bad for men.
- The Australian Democrats believe that holding one parent hostage will do little to relieve the stress on families and resolve the issues of trauma families are facing.

Recognise genuine refugees quickly and returning illegal immigrants.

- The Australian Democrats repeat that there is no such thing as a genuine refugee. Refugee status is not a determination but recognition by the State from which you have sought asylum. Crucial to this assessment is the realisation that Australia's failure to recognise a claim does not make the claim disingenuous.

Woomera will be closed; Baxter and Port Hedland retained as high security detention centres. Supervised Hostels will be located in regional areas.

Temporary protection visas will not continue indefinitely, after the term is completed those who are re-assessed and found once again to be refugees can apply for permanent residency and family reunion:

- This is welcome but the Australian Democrats advocate temporary protection visas should be abolished. We opposed their introduction in 1999. The hardship we predicted TPV's would cause is now occurring
- TPV's keep families apart, prevent settlement and keep refugees in a continuous state of uncertainty, prolonging the stress and trauma they have already suffered.

Under the heading "The best processing system"

Christmas Island remains excised from the Migration Zone and becomes the prime asylum seeking processing and detention facility.

- It will remain outside the Migration Zone and outside of Australian Migration Law.
- There will be no merits review of decisions made onshore or offshore at the administrative or judicial level. Both are granted only if the asylum seeker shows they have 'fully cooperated' and done everything to prepare to leave in case they fail the review.
- Ministerial intervention has been retained this process is not accountable and not appealable.

Under the heading “**Labor will lead the world on refugee and asylum seeker issues.**”

Establishing a one world processing system.

- Consideration should be given to the prospect of a one world system processing system based upon the tripartite deter detect and deny.

Reaching international agreement with pipeline countries.

- This means stopping boat arrivals and facilitating returns; through ensuring that transit countries like Thailand, Malaysia and Indonesia hold boat people in detention until they are processed by the UNCHR on the basis that Western governments and international agencies clear camps in their region.
- The Australian Democrats remain concerned about the proviso included in this proposal, which, states that Australia must retain the final say on the numbers of refugees and individuals who come for resettlement. Such an insistence is inconsistent with the policy and reality facing European and North American countries.
- Countries such as Indonesia and Malaysia will have to implement tighter restrictions on people movements from source countries such as Afghanistan, Iraq and Iran.

Stopping people trafficking

- A shocking crime very different to people smuggling and not a subject that should be linked with the refugee policy

Under the heading “**Restore Community Faith in the immigration program.**”

Labor will instigate a factual debate free from vilification.

- The Democrats agree with the sentiment and would like to point out that terms embedded in the ALP policy such as “genuine refugee, threats from people smuggling, illegal workers and people trafficking” do not assist with reducing vilification of refugees in the media and community.

Regions who want refugees will be resourced.

ALP will only increase the intake of refugees to Australia if they settle in regional areas.

- Forcing refugees to stay in particular areas is a breach of the Refugee Convention. Refugees should not be tied to staying in areas they don't want to live in, and reassessment must not be based on any criteria which has any reference to staying in regional areas.

Under the heading “Asylum Seekers are already in the community.”

The ALP acknowledges asylum seekers are underfunded and need assistance but does not detail how they will assist.

- The Australian Democrats advocate the removal of the 45-day rule, which prevents onshore asylum seekers gaining access to work rights, benefits and Medicare.