



CCJP
CATHOLICS IN COALITION FOR JUSTICE AND PEACE

Catholics in Coalition for Justice and Peace
2012 Occasional Paper Series

Refugees – appealing to our better angels

Address by John Menadue AO
October 2012

Refugees – Appealing to our better angels

Address by John Menadue AO, October 2012

(Note that this address was delivered before the announcement by Minister Bowen on 21 November 2012 that some of the boat arrivals sent to Nauru after 13 August would be issued with bridging visas with no work rights but allowing them to live in the community whilst awaiting processing.)

It is a pleasure to be here again. I spoke about two years ago on refugee matters. As a bureaucrat some years ago I had the good fortune to work with Malcolm Fraser as Prime Minister and Ian Macphee as the Minister for Immigration. It was a dream administering refugee policies in that period.

In the Department of Immigration, we had people reflecting the community generally. Some very conservative, hard liners, but others were more liberal and open-minded. What was different then was leadership. Hopefully I provided some leadership but more importantly leadership came then from Malcolm Fraser and Ian Macphee That is the difference compared with today

The most meaningful job of my life was Secretary of Immigration. I enjoyed it much more than Japan, much more than Prime Minister and Cabinet. It was nation building. We were part of a major change in Australian history for, in the end, about 250,000 Indo-Chinese came to this country for resettlement, and we did it well. We broke the back of White Australia, despite some mistakes and misadventures along the way. I guess Cabramatta was an example of what could go wrong without leadership of a new ethnic community.

Let me thank CCJP for your help in purchasing many copies of “*A New Approach..., Breaking the Stalemate on Refugees and Asylum Seekers*”

that we produced at the Centre for Policy Development. It contributed to the debate, a debate that is never going to end.

For those who do not have a copy it is on our website

Within the next month, the Centre for Policy Development is also publishing a media handbook. The general misinformation on the subject amongst journalists is a problem. Quite apart from the influence of proprietors, journalists in many cases are not particularly well informed. I recall a statement by the late Senator Daniel Moynihan that everyone is entitled to their own opinion but no one is entitled to their own facts.

In addition, many refugee articles of mine can be found on my website at www.johnmenadue.com as well as on www.cpd.org.au.

With refugees, we do not have a policy problem or a national interest problem. We have a political problem. We have to solve the political problem because we have politicians who are not providing leadership. Other institutions such as the Catholic Church and others are also not providing leadership.

We have to address the practical *realpolitik* of the problem of asylum seekers and refugees. How do we get through the political impasse that we are in now? We have made some progress with the Houston expert panel report, although unfortunately it has given us Manus and Nauru as part of the total package.

The title that I have chosen for today is **Refugees – Appealing to our better angels**. This phrase, *Appealing to our better angels* was, in fact, in Abraham Lincoln's 1860 inaugural address. He was appealing to the South, possible secessionists, backing slavery. He was appealing to the better angels of their nature. They are in each of us. We also have darker angels, and we are seeing that today in the public debate in Australia. We are all inclined to be instinctively cautious about the foreigner, the outsider, the person who is different. However, our better angels, better

instincts for generosity and hope, can overcome the fears that we each have. We each wrestle with our better and our darker angels.

Thomas Merton puts it in terms of true self and false self. The true self is God – justice, hope, confidence, generosity. The false self is ego, fear, selfishness. That struggle is in each of us. If we are honest with ourselves, we acknowledge it is there. It is a struggle we all have. That struggle is going on in the community.

Unfortunately, it is easy to appeal to our worst instincts, our darker angels. That is the debate we have been having in this country over the last few years with a Government, which is yet to make a case for humane and generous treatment of refugees. I have yet to hear Julia Gillard make a case, as Malcolm Fraser did, for generous treatment of outsiders and people who are different. Government Ministers say their tough policies are to stop people drowning at sea when its policies are really designed to compete with the Coalition to show how politically tough they are.

Tony Abbott and Scott Morrison are in a class of their own, exploiting this fear of the foreigner and fear of the outsider. History is littered with unscrupulous leaders who exploit that fear of the foreigner, the fear of the outsider, the fear of a person who is different. Tony Abbott still calls asylum seekers “illegals”. He must know that that is untrue. It is designed to promote hostility and hatred. He wants to demonise asylum seekers – that they are breaking the law and are little better than criminals.

Our Judeo-Christian tradition clearly highlights that we have a responsibility to care for the stranger, the outsider. A Jewish friend reminded me that the Torah mentions that responsibility 36 times. Jews were strangers themselves in Egypt. The Passover is, in fact, a celebration of strangers coming out of captivity. The Torah mentions care for the stranger more times than dietary laws or the observance of the Sabbath. In the Christian tradition, it is expressed in terms of care for the

orphaned and the widowed who were excluded. One of the epic stories of the New Testament is the flight of the Holy Family to Egypt to escape the “slaughter of the innocents”.

In the struggle between our better angels and our darker angels, leadership is important. Ben Chifley gave us that leadership in accepting Jews into our community in the 1940s. If he had consulted opinion polls we would never have taken Jews, but he did it and with that leadership we responded – not generously, not quickly, but we accepted that that was the right thing to do.

Leadership was important when Malcolm Fraser did the same in respect of the Indo-Chinese. We did not embrace the idea quickly but over a period with explanation and appealing to our better angels, we responded.

My concern now is that we lack leadership to appeal to the better angels in each of us. There is lack of leadership by politicians; there is lack of leadership in the Catholic Church and in other churches. The Jewish community is quiet. The Vietnamese community is quiet. The Vietnamese are our largest and most recent group to benefit from Australian generosity. However, they are quiet, very quiet indeed.

At the grass roots level, there are people who are responding to the better angels of their nature. I am very grateful, as I think many people are, for the work that the CCJP does in keeping the issue alive. The Greens cannot be excused. Their rejection of a regional co-operation on Malaysia, has given us Manus and Nauru. A similar thing happened three years ago, when the Rudd Government introduced a Carbon Pollution Reduction Scheme. It was opposed by the Greens in the Senate and we now have an inferior scheme. Over the last three years, public support for a carbon pollution reduction arrangement has fallen from over 70% to less than 40%. We have had a dreadful refugee debate and the Greens must accept a lot of responsibility for that. They must accept responsibility now for Manus and for Nauru.

If the Greens had been prepared to compromise, we would not have had Manus and we would not have had Nauru. I used to work for Gough Whitlam and in addressing the problems of the Victorian branch of the ALP; he said "Only the impotent are pure". The Greens are like that today.

The debate about asylum seekers and refugees is in one sense a de facto debate about race. We have formally abandoned 'White Australia'; The Whitlam Government abolished it in statute. Malcolm Fraser put it to the test in the electorate through the Indo-China program. Formally, we have got rid of White Australia. However, it is lurking in the background and can be exploited by the Abbotts and Morrisons of this world .Of course it takes a slightly different and "dog whistling" form, not fear of Asians but fear of Muslims. In fact, in the last two years, more Christians have come to Australia as refugees than Muslims.

When I was here last time, we covered a range of issues. The number of refugees in the world. Whilst the number coming to this country is very, very small indeed, we do not have a serious problem. We spoke about mandatory detention and importantly, the success stories of refugees in this country. They turn out to be marvellous settlers, highly motivated, grateful for the opportunities they have been given in this country. Professor Hugo of Adelaide University has published a study highlighting the success of refugees in this country. The first generation clearly has problems of language, and settling into a new country. However, just look at the HSC results in this State and elsewhere for leaving or university entry to see the motivation and the commitment of migrants, particularly refugees, coming to this country. We all know of young refugee children who are making a great contribution to this country. It is great success story, despite the early problems.

I would like to speak mainly today about the current situation in light of the Houston panel, which the Government established. The Houston panel reported about eight weeks ago and the Government and the

Coalition very largely accepted the recommendations of the Houston Report on asylum seekers.

The package as a whole is to be largely commended but unfortunately prominent in it was the support for processing on Manus and Nauru. When I was here last time, I spoke about Nauru. It was a success back in the Howard period in deterring new asylum seekers. The numbers coming by boat dropped away dramatically although they continued to come by air. However, the view then, certainly in the Government before Houston and I know in the Department of Immigration, was that that so-called success following Tampa could not be repeated. Asylum seekers and people smugglers came to realise, after the confusion following Tampa, that asylum seekers would finish up in Australia anyhow. About 1,600 people went to Nauru. About 400 were persuaded to return home voluntarily and of the remainder over 90% finished up in Australia or New Zealand.

My position today is that we know by experience that deterrents like Nauru and Manus do not succeed. The deterrent would have to be worse than the persecution they are fleeing from in their home country. There will be great hardships inflicted on those people. Hazaras, for example, are prepared to say, *I will take that risk, I am prepared to go to Manus, I am prepared to go to Nauru, because I know at the end of the day Australians are decent people and they will accept me.* At the end of the day, we are not bad people and we will accept them. That is what happened last time with Nauru/Manus. It will happen again.

Based on my experience, my view is that those presently being sent to Nauru and Manus will finish in Australia. In following the Coalition line on Nauru and Manus the Government has made a major mistake. Scott Morrison is saying that they will have to stay there five years and not get any advantage over other refugees. It will not be five years. I think our hearts will melt and we will decide that we need to be more generous than that. At the end of the day, many going to Nauru and Manus will come here once the political heat is off.

In response to the Houston report, the Government has said that it will accept all the recommendations and that includes increasing the refugee intake to 20,000 per annum. Presently it is about 11,500 or 12,000 of which half are refugees. The rest are for special humanitarian programs, which are largely family reunion. Therefore, the increase in the intake, which the Government has accepted and the Opposition has accepted, is to be commended. There will also be emphasis on intakes from our region.

The downside, as I mentioned, is Manus and Nauru and the UNHCR has made it abundantly clear that it will not co-operate on either Manus or on Nauru. It regards Australian Government actions in those respects as contrary to the Refugee Convention. It will inflict hardship and will not be effective in deterring people coming to Australia. It will not work. I do not know how long it will take before it unravels but I am very certain that that will occur. The Australian community, in groups such as yours, must maintain pressure to end Manus and end Nauru as quickly as possible. It is a major problem.

The Government has said that the family reunion part of the refugee program, which is almost half the humanitarian intake now, will be shifted elsewhere in the migration program. Therefore, there will be greater opportunities for Australia to take from refugee-prone areas around the world.

One key in my view is to establish Orderly Departure Programs with Afghanistan, Pakistan and Sri Lanka. About 80% to 85% of the asylum seeker flow coming to this country is coming from those three countries. There is a precedent for an ODP. Under the Fraser Government in 1983, we established an ODP with Vietnam. Under that program, 100,000 Indo-Chinese came to Australia not as refugees but in an orderly program. That ODP was negotiated with the Communist Government of Vietnam. It worked very well. People did not have to risk dangerous sea voyages to come to Australia. We were tough on some who had come to this country. They were given the option to return or were sent home. Several hundred

were sent home with the co-operation of the Government of Vietnam. We did not encounter any serious problems, but 100,000 Vietnamese came to Australia under the ODP. It worked well and many Vietnamese living in this country are here because of that ODP. They no longer had to take dangerous sea voyages or make other arrangements to come to this country.

I believe we could establish similar arrangements with Afghanistan, with Pakistan and Sri Lanka and reduce the number coming by irregular means including by boat. Pakistan has almost two million refugees or asylum seekers. Many of them of concern to us are Hazara who have been forced out of Afghanistan and are now living in the Quetta area in the north-western frontier of Pakistan. They are suffering persecution as a minority Muslim sect. Many have family in Australia. They are facing death daily in the Quetta area from militant fundamentalists in north-western Pakistan. I believe it would be possible to negotiate with the Pakistani Government to get access to those people and, subject to checking, bring a significant number of them directly to Australia under an ODP.

There are also large numbers in Afghanistan who seek freedom, who face discrimination and worse. It is likely that the Afghani Government would be glad to get rid of some of these minorities. It would not be easy but I believe it could be done.

Similarly in Sri Lanka, which is the third largest group of asylum seekers coming by boat to this country, I believe it would be possible, although difficult, to negotiate an arrangement with the Sri Lankan Government to allow Australian officials access to some of the Tamil camps in Sri Lanka and allow them to come to Australia in an orderly way. It would be more difficult in the case of Sri Lanka because the Sri Lankan Government is reluctant to admit that there is any problem and unfortunately, signs are that Australian Government officials are co-operating with the Sri Lankan Government in denying opportunities for Tamils facing persecution.

The ODP we had with Vietnam could with patience and diplomatic skill be replicated for Afghanistan, Sri Lanka and particularly for Hazaras in north-west Pakistan. That would make an enormous difference to the plight of the people coming by boat to this country. It is best to address those problems at source.

Then we need to address the question of asylum seekers in transit, i.e. in the region, particularly in Malaysia, Indonesia and in Thailand,

Malcolm Fraser accepted that we needed regional co-operation to address the problems of Indo-Chinese flooding into the region. At its height, there were about 1.4 million Indo-Chinese in temporary refuge in the countries of South East Asia. It was a very large number and over a period, the Australian Government and other governments developed what was called the Comprehensive Plan of Action to address the plight of refugees in the camps of South East Asia. Importantly, that was done with the countries of SE Asia in co-operation with the Americans, the French, the British the New Zealanders and ourselves. It was a very successful CPA for resettlement of people. As a result, Australia accepted over a period, with family reunion, about 250,000 Indo-Chinese. It was a great success story although it was rough at the edges at times.

The Fraser Government should be commended on the courage it showed. Malcolm Fraser's view was that we had been involved in the Vietnam War; we had responsibilities that flowed from that, and we should be prepared to accept some of the consequences of the outflow of people from Indo-China. We did, and we did it in spades.

My own view in retrospect is that that would not have been possible if the boats had continued to come the way they are coming to Australia now. There were some boats from Indo-China indirectly through Malaysia and Thailand and Indonesia, but the number coming to our shores was not large. It might have been something like 100 or less over many years. It did not present the political problem we now face. It is a political problem. There are now more boats and we are still frightened of Asia. It

is not a real threat but the politics of it are not good for any Government. Tony Abbott is very different to Malcolm Fraser, and Scott Morrison is very different to Ian Macphee.

I have been a supporter of the Malaysian proposal. My experience with the Fraser Government was that we needed to co-operate with the countries of our region in addressing this problem. Almost everyone agrees there has to be a regional agreement but we have not got there yet.

The Indo-China refugee crisis in the late 1970s and early 1980s was however different in some respects. The countries of SE Asia had 1.4 million asylum seekers in their countries and that was unsettling. The numbers are large now, particularly in Thailand, but much fewer in Indonesia and in Malaysia. Therefore, the problem was greater then for the countries of SE Asia. They had to resolve the problem. They do not have the same sort of pressure now, although they are clearly uncomfortable with the number of asylum seekers/asylum seekers in their countries.

Another important factor in the Indo-China resettlement was that the Americans were big players. They used their political influence, which was considerable. Their financial influence was considerable, and they took large numbers, more than any other country, from Indo-China. The Americans did the heavy lifting on the Indo-China program. They are not going to do heavy lifting on the current problems that we face with people coming from Afghanistan and Sri Lanka and through Pakistan. The Americans are not big players now as they were in the Indo-China program. Therefore, we have to be more determined ourselves and take leadership on it.

As part of a regional arrangement, there are important components, which have not yet been achieved that we need to address. Some of them are in process with what is called the 'Bali' arrangement, which includes a whole range of countries from the region and resettlement countries to try to

determine how to handle the present number of asylum seekers that are distributed across the region. It will be up to regional countries to do more now, and we are showing some leadership in the Bali process, though unfortunately not enough.

We need to better resource the Bali secretariat more. We need to revive the Malaysian proposal. If we are to have a regional arrangement, which most of us would agree is essential; the only building block that is available now is the Malaysian arrangement. Our Government negotiated it but the Opposition and the Greens opposed it.

Arja Keski-Nummi and I have written about the need for the Malaysia arrangement to be updated and we have called it 'Malaysia Mark II'. I think Malaysia has been quite unfairly criticised for its action in respect of asylum seekers and refugees. It has about 200,000 living in its country. It is tough for many of them. When we point to that toughness however, we do not have an unblemished record when we consider the suicides, trauma and self-harm under mandatory detention here.

The arrangement which the Australian Government with the help of the UNHCR negotiated with the Malaysian Government included many safeguards – safeguards against refoulment (that asylum seekers could not be sent back to the countries from which they'd been expelled or fled); that asylum seekers in Malaysia would be given documentation by both the Malaysian Government and UNHCR to indicate that they were not illegal but asylum seekers entitled to protection within Malaysia; that they were entitled to work; that they were entitled to some access to social welfare facilities. These were very considerable advances. They were supported by UNHCR. The UNHCR will not have a bar of Manus or Nauru but was supportive of what was agreed with Malaysia. They believed they could make it work and the proposal would be acceptable in terms of the charter of the Refugee Convention.

I have been working with Arja Keski-Nummi, who is a former Immigration official. We have written quite a lot of papers about Malaysia Mark II and

how it could be improved. First is that there should be no cap on the numbers. There was a cap of 800, as you probably recall. It is unwise to put caps on such arrangements. Julia Gillard made a mistake in saying that those who were being returned to Malaysia would go to the back of the queue as penalty. I think that it is inappropriate in this or any place where people are seeking asylum. We need to get Malaysia back on track. That was recommended by the Houston report as part of the package of 20-odd proposals. Tony Abbott says that the Houston Panel gave Malaysia a red light. It did not. It gave Malaysia an amber light and said that if we make certain changes a Malaysia arrangement would be acceptable.

Malaysia, in my view, is the only building block we have now for a regional arrangement. If we could get that arrangement with Malaysia, I think it would greatly assist in developing a regional arrangement, which provides protection for asylum seekers in the region - protection while they are in the region and then successful resettlement in countries such as Australia or Canada or the United States.

Consistent with the Houston report, Arja Keski-Nummi and I have proposed that a UNHCR processing centre be established in Indonesia. That of course would have to be with the agreement of the Indonesian Government... The number of asylum seekers in Indonesia is not large; it is probably about 2,500 to 3,000. It is not a big problem. The majority of asylum seekers are in Malaysia or Thailand – a bigger number in Thailand. The UNHCR should be encouraged, and I believe it would be responsive, to establish a formal processing centre in Indonesia. It would probably not be in the islands from which boats are launched en route to Christmas Island. It would probably be close to Singapore. I am confident UNHCR would do that. It will not have a bar of Manus or Nauru but it would co-operate in a processing centre in Indonesia.

Another important issue is turn-backs at sea, which Tony Abbott keeps talking about. He places great emphasis on countries that are signatories to the UN Convention on Refugees but has said that he will return people

to Indonesia, which is not a signatory to the Convention. In our Malaysian Mark II proposal, we suggested that the Safety of Life at Sea Convention be incorporated into Australian law. This would make it clear that persons in danger at sea have to be rescued, they are guaranteed safety by vessels that pick them up, and they will not be returned to another country such as Indonesia.

The Indonesians, of course, have made it clear (although Tony Abbott does not seem to want to admit it) that Indonesia will not accept turn-backs. Why should they? They have enough problems in Indonesia.

When we look back at our history, some of it is grim. My judgement is that we are now a far better and more generous country than when I was a boy. For example, we look back at those with Irish backgrounds. They were once regarded as potentially disloyal people with more loyalty to the Pope than to the Crown. However, the Irish have settled well into this country. Another example, when I was a boy in South Australia in the war years, the Germans were suspect. I remember schoolyard talk and jokes about the Germans. Then it was the Jews. Then it was the Balts. Then it was the Indo-Chinese. And so it went on. Despite the roughness at the edges, we put it together pretty well. That is what makes me confident in this present impasse on refugees that we will get through it satisfactorily. In addition, we will look back with some shame but also some appreciation of what we have been able to achieve as an open and welcoming country. I think the Catholic community has made and will continue to make a great contribution to that, despite the disinterest of most of our leaders.

I will conclude with a few things before we open up for discussion.

750,000 refugees have come to this country since the last War and they have contributed out of proportion to their numbers. There have been some problems, but they have made a very significant contribution, particularly the second and third generations. Their motivation and commitment to this country is second to none.

Largely we are recognised as a decent country. We do give people a fair go and there is due process in this country. As we have in the past, we take a while to work our way through it but I am optimistic that the problems we face today will be resolved.

As students, we campaigned against White Australia. Despite the occasional setback on White Australia issues and the habit of unscrupulous leaders to tap into our xenophobia, we have really made a great deal of progress.

Nauru and Manus will fail. They will not deter. People will still keep coming because they are desperate. They know that we are a decent people and that we will not leave them stranded on Manus or Nauru for five years as the Opposition says we will. We are not that sort of people. We may look harsh now but I think we will respond more generously in the days and years ahead.

Let me conclude with extracts from a speech by Hieu Van Le, the Lt Governor of South Australia in an address in Old Parliament House in Canberra in May last year. He was a boat person and recalled his coming into Darwin Harbour as a boat person in 1977. He said:

“A tinny with two blokes in shorts and singlet and sun hats on, with zinc cream on their noses, fishing rods primed and sticking into the air, and the first beers of the day in their hands, came close to our boat. They waved to us and steered their boat very close to ours, and one of them raised his stubby as if proposing a toast. *G'day, mate*, he shouted, *welcome to Australia.*”

The two blokes in the tinny showed the better angels of our nature. I hope that we can have leadership to engender and bring our better angels to the fore.

Thank you very much.

Questions and Comments

Q: John, I have two questions for you. The first one is you made reference to the basic decency of Australians. I don't disagree with you but the fact that, I just wonder if the current state of politics in Australia and the indecency that that has descended to has also had an impact on society at large, given the negative view about boat people in particular. Secondly, getting back to the Malaysian solution, I get the impression that the reason why the Opposition opposed that quite vehemently was that they had not thought of it themselves in the first place.

A: On the second point, I am not quite sure whether that is right. I do not think they want anything to work. They clearly have a view that the more boat people who arrive the better. That is good politics and there was a quote attributed to a leading Liberal frontbencher, not named, that the more boats that come the better. That is still the general view of the Opposition. It is good politics and that is what the Government is trying to address – the politics rather than the policy and national interests.

I think Australians do respond to a good case consistently argued and they would do so again if only our leadership would provide it. Leadership is lacking not just among politicians; it is lacking in the Catholic Church, it is lacking in the wider community in general. So I would urge your group not to lose heart, it is very important. Although I have a major problem, as you would gather, with Nauru and Manus, the Houston report as a package is the best we have seen for a long time. The Government has said it is committed to implementing it, including, unfortunately, Nauru and Manus. That aside, it is a pretty good package, the best we have seen for quite a while, so there are signs of hope and unfortunately we are not getting much leadership from the Prime Minister or the Minister for Immigration, and even less from Tony Abbott.

Q: This is a comment first, John. I think it's such a shame that we're not taking this opportunity with the clash of civilisations West and Muslim, Middle Eastern, to really try to make friends with those people from those

Middle Eastern countries that have arrived in Australia. Also for the Church not to see this wonderful opportunity to move into an interfaith stance, knowing that we are all one and we inhabit one world. I wonder if they know that about 60% of the people in the camps are on depressants and sleeping tablets and that by keeping them in this type of detention when they are finally admitted to the Australian community we're going to have more problems getting them back to normal. The other thing is with the people who arrive they say there are 1,500 now on Christmas Island and Derby. With the present policy, can they be moved out now on bridging visas and community detention or do they have to be kept there until there is enough accommodation on Nauru and Manus Is.?

A: As I understand it, about 400 a month are coming out of detention on bridging visas. That is commendable. I wish it would go faster than that. They will be persons mainly from Christmas Island and some of the other detention centres. I would hope this could be speeded up considerably. Moving more people out of detention centres is an achievement of the present Government in the face of the hostility towards asylum seekers.

I hope we can get rid of mandatory detention altogether. Bridging visas are a means to that end.

Q: Do the new arrivals have to go to Nauru and Manus Island and can they still be let out on bridging visas?

A: I assume not. I am guessing. If they cling to the view that detention deters irregular arrivals, then people sent to Nauru and Manus will have to stay there for a long, long time, I am assuming, though it is only an assumption that they are not going to get bridging visas. How one would make a distinction between those people who are at Manus and Nauru compared with those who are at Christmas Island, I am not sure how you can do that. Something has to be worked out.

The proposals for Nauru and Manus will break down. That may sound anarchistic, but I think these proposals will break down and the co-operation of groups such as yourselves is important to make the

intellectual case and the moral case that the present policies are not only inhuman but they are wrong and will not work. If you continue to do that, you will make a very important contribution to ameliorating this problem. It is not going to go away. People are going to come to this country by means that are irregular, not illegal, but irregular and we are never going to stop that while Australia is an attractive destination and we have a developed sense of what is right and what is wrong. The contribution this community has made over the years makes us remain an attractive destination for people who are desperate.

Q: As members of St Vincent de Paul, some of us are floundering when we get calls every week because people have been recommended to Vinnies from the Red Cross and the refugees and asylum seekers in our community with nothing, absolutely nothing. There is willingness, I think, on the part of many of those people to really get going if they could. There is not a great deal of support for them, from what I can see, from anything other than us trying to get beds and things for them.

A: The situation with the Indo-Chinese generally was different. Very few people came by boat. Very few people came unauthorised. Most of them came through official channels, including those under the ODP from Vietnam, so they had access to Government funded programs.

People on bridging visas do not get that level of Government support. It is a deliberate Government policy not to provide that assistance. The Government also mistakenly believes that asylum seekers will be deterred if there is no settlement support. And they see it as politically risky if they are seen to be helping people on bridging visas. Unfortunately that's the way it is. So it will remain, at least in the short term the responsibility of St Vincent de Paul, Red Cross and other private agencies to fill the gap so that people on bridging visas get some support. The Government is not providing assistance to them for political reasons. It does not want to be seen to be facilitating unauthorised people. We need to understand the reasons for the harshness of Government policy. That policy is mistaken but it is deliberate.

Q: There was so much excitement about Australia being accepted on to the Security Council for a two year period. With the UNHCR not agreeing to Manus and Nauru, is there any possibility of bringing a case to the Security Council on what Australia is doing?

A: I wish it was possible but I cannot see that the UN community would facilitate what you propose. Australia's election to the Security Council is a compliment, but we have nothing to be proud of in terms of the issues that we have been discussing today. I think we need to get our house in order and that means immediately working co-operatively with UNHCR. I think we have to obtain the support of UNHCR particularly in Malaysia and Indonesia, but they will not agree to what we are proposing on Manus and Nauru.

Q: I wonder if you would like to comment. The two major parties have politicised this issue and the Greens have been dishonest brokers on many issues, but the independents Windsor and Oakshott have seemed to me to shine an Australian truth about the Australian people being generous. I have been very much impressed by their politically self-sacrificial statements, particularly from their areas. They are strong National Party areas. They have alienated themselves at expense to try and present a truthful and a more compassionate view on this matter. Do you have any comments to make?

A: Certainly, on these and on many other issues Tony Windsor and Rob Oakshott have been shining stars in the present parliament. On refugees, they have been useful and they supported and then encouraged the Opposition to support the package flowing from the Houston report, which unfortunately included Nauru and Manus. They saw that as a compromise necessary to get the whole package agreed.

The Greens are the key to getting successful change in refugee policy. The Greens have opposed sensible reform. Because of their piety, we have Nauru and Manus. On Malaysia, they have sided with Tony Abbott.

Q: I am a bit concerned about the difficulties of family reunion. It is so expensive that the poorer people cannot manage to get their family reunion. To me that's possibly one reason why whole family units are getting on boats, but it seems to me that sometimes the people who are saying children shouldn't be in detention, that's fine, but when they're out of detention it should be mum, dad and the kids together. I have a feeling that the policy along the line has been mother goes with the children but not the father

A: Family reunion is an important part of the Houston package, which has not had much attention. The refugee intake includes the special humanitarian program, which is largely family reunion, i.e. refugees accepted by Australia with family still overseas can sponsor them. They were taking up about half the refugee program.

The Government has announced that persons who have come to Australia and been accepted as refugees can continue to sponsor relatives in family reunion but not under the special humanitarian program. They would be assessed as part of the regular family reunion program, That will relieve a lot of pressure on the numbers in the refugee program, That is very welcome.

We need to be careful of one aspect of family reunion, in what is known as "anchors". A male, a son or a husband, is used as an anchor into Australia. Then the rest of the family come out subsequently on the rope attached to that anchor. There was concern that the boats were filling up with single males, often minors.

Not understanding the issue, some in the media then criticised the Government for not allowing these minors to bring their families. That is a hard one for governments, A little bit of tough love, is necessary because the system will be corrupted if all of our boat arrivals were single young men arriving and then being the anchor to bring the rest of the family. It requires some difficult political decision and a bit of tough love to make sure that the system doesn't become corrupted.

Q: John, you were talking about the Malaysia solution and I do not have much in my head. Could you explain a bit further how you would see the ideal solution in terms of what we could have? Would Australians be paying for the people in the camps over there? How would it work?

A: Malaysia is not a signatory to the Refugee Convention. There is no signatory to the Convention between Yemen and Australia which is the path that almost all asylum seekers take on the way to Australia, through Pakistan, India, Bangladesh, Sri Lanka, Burma, Thailand, Malaysia, Singapore, and Indonesia. None of these countries is a signatory to the Convention, but if we are to have an effective regional arrangement, we have to deal with them.

It is a cop out by the Coalition and some of our NGOs to say that Australia should only deal with countries that have signed the Convention. China has signed the Convention, but it does not have a great record on human rights. Therefore, we have to deal with the facts on the ground, and the UNHCR was supportive of the breakthrough with Malaysia, a non-signatory country to become a party to a bilateral agreement, which they would support.

Under that arrangement, the Malaysian Government undertook that it would not refoule persons. They would not be sent back to their country. They would get documentation from both the Malaysian Government and the UNHCR that they were not illegals, that they were genuine asylum seekers seeking refuge. They would not be detained and not be put in jail, like we put people in jail or detention centres in Australia. Asylum seekers in Malaysia could work, with some limitations, and they had some access to health and education for their children.

These quite remarkable improvements could be built on. Under the arrangement, there were limitations on numbers. I think it was 800 that would be returned from Australia to Malaysia and that was what worried people, that transfer or swap.

If Malaysia would abide by the terms of the agreement with the Australian Government and with the co-operation of the UNHCR, I would be prepared to live with it - for the substance of it but also as an important step in building a regional arrangement. There will be no satisfactory arrangement in our region unless we have the active co-operation of Malaysia, Thailand and Indonesia. Malaysia is potentially a very important building block that was rejected by the Parliament. The Parliament has said yes to Manus and Nauru but will not agree to Malaysia. I think that is a great pity and a breakthrough is still necessary. I hope the community, including you, will perhaps think again about Malaysia. It is one way through this present impasse,

Q: I would like you to make a comment, please, on the situation where refugees are given validity only to be incarcerated on the say-so of ASIO without any charges being made public or any substance for what the charges are.

A: Clearly, it is a breach of anyone's human rights to be penalised for reasons, which cannot be revealed or contested. That is what has been happening consistently. ASIO makes recommendations to Government. It does not make decisions about who should be accepted or rejected; it only makes recommendations, But Governments including the present one, will invariably accept the advice and recommendation of ASIO. They are the experts we are told!. However, they rely on sometimes sketchy and dubious information. The Government has now announced there will be an appeal process, that a judge will be appointed to hear the cases.

ASIO has many oddbods. Over the years, I have met many of them. I have not always been impressed. However, mention security, and terrorism and Ministers seem to swoon. However, it is progress to have an appeal process established. I expect they'll be hearing first the cases against 50-odd Sri Lankans. Some have been in detention now for about three years, despite the fact they had their refugee claim accepted.

If I was a Tamil, I would be very sceptical about the Sinhalese Government in Sri Lanka but at least now we have a process whereby recommendations by ASIO can be reviewed. ASIO is a necessary but somewhat erratic organisation.

I should mention that the Special Humanitarian Program, which was established by the Fraser Government when I was in the Department with Ian Macphee, was designed specifically to help persons under threat in other countries, particularly in South America, who could not claim refugee status. The Reagan Administration would never admit that its military friends in South America could be persecuting their populations, The UNHCR, which was heavily dependent on American funding was unable to operate in many countries of South America.

We were encouraged, however, by UNHCR to see what we could do quietly to help persons under pressure and discrimination, in Chile under the Allende Government, and also in El Salvador. With the tacit approval of the Chilean Government and without any help from the Americans, we took about 3,000 persons out of Chile, including Allende's daughter, who came to Australia but later returned to politics in her country. We also took about 400 from El Salvador which was under a military government. You may recall that Bishop Oscar Romero was murdered in his cathedral in San Salvador. So without fuss, we took about 400 people from El Salvador.

It is possible to do things under the radar, as we did in Chile and El Salvador., with the co-operation of the UNHCR. The UNHCR is a very important broker in these areas.

Q: I am not really in the business of supporting bishops but I think it is important to know Eugene Hurley, when he was bishop of Port Pirie, was very critical of the situation with the asylum seekers near Port Augusta. He is now in Darwin. I do not think he has changed his attitude. I guess he is a sort of backbencher in terms of the bishops' conference, but I think he is a man we could keep supporting and perhaps encourage to

seek him out. The question is, though, John, other recommendations in the Houston report, were there other recommendations that the Government has agreed to but are not actually working on as they are with Manus and Nauru? Are there other things we should be reminding them that they could get on and do?

A: On the first point, we approached two Catholic bishops to support CDP's policy paper on refugees. I got no response. One of them was a former Vietnamese refugee who came by boat. Through my Parish Priest, I offered to brief Cardinal Pell but he was apparently too busy. There are some bishops, mainly from Broome, Central Australia, and Darwin who have been very good.

On the question of the Houston report, there's a whole range of issues that have not been addressed. The Government has said that it will implement the lot, which is encouraging. It has not said how it is going to implement the 20,000 intake. That will be a very significant improvement. The appeals process has been announced. There is quite a lot, particularly in family reunion, which is encouraging. Support for UNHCR is to be enhanced. However, the big breakthrough will be when UNHCR and we can give a tick to Malaysia. We will not have a satisfactory refugee policy in this country unless it is part of regional co-operation. Almost all the refugees seeking asylum in this country come through South East Asia and there is not a signatory to the Convention amongst them.

Unfortunately, the NGO sector says that if countries are not signatories to the Convention we should beware of them. That is not very helpful. We have to deal with what is available on the ground. Countries like Malaysia are doing more for refugees than we are. There are 200,000 of them in that country. Malaysia is a poorer country than we are and we should not be pointing the finger at them, particularly when we have mandatory detention. I think we still have a 'White Australia' attitude that those people surely cannot do as well as we do.

We must minimize Nauru and Manus. We need ODPs with source countries such as Afghanistan, Pakistan and Sri Lanka. We need to build a regional framework, starting with enhanced arrangements with Malaysia and generous support for Indonesia including a UNHCR processing centre in that country. We need a package of measures to address the “problem”, not just Malaysia or Nauru.

However, whatever we do in source and transit countries, desperate people will still take risks and come uninvited.

Whilst wars, civil wars persecution and violence continue as in Syria and the Congo today, people will flee and seek protection. The calls on our generosity and compassion will continue.

About John Menadue

John is a founder and fellow of the Centre for Policy Development. He was formerly Secretary of the Department of Immigration in the Fraser Government 1980 – 1983, when the Immigration Minister was Mr Ian McPhee. John was also previously Secretary of Prime Minister and Cabinet under Prime Ministers Gough Whitlam and Malcolm Fraser, Ambassador to Japan, and CEO of QANTAS.

