



Sanctuary, Nauru and Jesus

A Briefing Document for Churches Wondering How to Respond

On Feb 3, 2016 the High Court of Australia ruled that there was no legal impediment to the government detaining refugees on Nauru. This ruling was in response to a case brought by a Bangladeshi detainee. The detainee was one of 267 asylum seekers and refugees who had been brought to Australia from Nauru for medical care or to accompany a minor needing care. The group includes 30 babies who were born in Australia.

With the government in a position to legally return the asylum seekers and refugees to Nauru, a movement of Australians, including many churches and church leaders, is calling on the government to let them stay in Australia. A group of churches have gone so far as to declare they will provide sanctuary for any of the 267 refugees who seek it. This means that they will shelter and care for the refugees within their churches and refuse to hand them over to authorities for deportation to Nauru.

Background To The Offshore Detention Policy

Australia has been receiving refugees since the end of the Second World War. Prior to the mid-1970s refugees arrived predominantly at the invitation of the Australian government. The Vietnam crisis saw the emergence of the phenomenon of people arriving on boats. Since then refugees have come to Australia in one of three ways:

1. At the invitation of the Australian government;
2. As tourists or students who then apply for asylum while they are in Australia;
3. Aboard boats or planes, arriving without any authorisation, and applying for asylum.

All three avenues are legal under international law. It is not uncommon for those who arrive by boat without visas to be described as "illegals". This is, however, inaccurate. It is, in most circumstances, illegal to enter Australia, or any other country in the world, without a visa granting permission to be in the country. An exception is made for those who are fleeing persecution and seeking refuge. The Refugee Convention, to which Australia is a signatory, grants those fleeing persecution the right to enter any country and seek asylum. In the event their claim to be refugees is demonstrated the

country they have approached is obliged to provide them with protection. This recognises that those fleeing persecution often do so without the ability to pursue regular migration channels.

While the Australian response to refugees who arrive at the invitation of the government has been positive, there has always existed a certain level of angst about boat arrivals. Two events in the past decade have seen this angst rise and resulted in the current Australian policy. First, there were sharp escalations in the number of people arriving by boat during the prime ministerships of John Howard and Kevin Rudd. It was argued by some of our political leaders that the numbers were sufficiently large that Australia was losing control of its borders, that is, Australia was no longer determining who would enter the country and on what grounds.

Second, in December 2010, a refugee boat broke apart on the rocks off Christmas Island. Australians watched as refugees drowned despite frantic rescue efforts. This brought home with great force the reality that many people drowned while making the crossing from Indonesia to Australia. The International Office of Migration estimates that between 2000 and 2014 almost 1500 asylum seekers died trying to make this trip.

The escalation in arrivals and the horror of drownings at sea created a determination by both major political parties to prevent boats from arriving in Australia. The Rudd government introduced a policy that boat arrivals would be sent to detention centres on Manus Island and Nauru and refused permission to ever enter Australia. The Abbott government added the practice of turning boats around at sea and sending them back to the port from which they had set out. The aim of these policies was to deter people from making the trip and to make it unprofitable for those who ran smuggling operations to continue. Their effect has been to effectively end the arrival of boats to Australia.

Opposition To The Detention Policy

The policies of offshore detention and of turning boats around has met with fierce opposition. Critics argue that:

1. Boats may no longer reach Australia, but this has not stopped deaths at sea. There are 22 million refugees and asylum seekers in the world today and the international community is failing to provide them with the protection they need. There are three "durable solutions" for refugees:
 - a. Refugees wait until it is safe to return to their homeland and then do so;
 - b. Refugees settle down to establish a new life in the country to which they have fled;
 - c. Refugees are offered the opportunity to settle in a third country, such as Australia or the United States.

The problem refugees face is that in any given year only 1-2% have the opportunity to return home; 1-2% the opportunity to settle down as citizens of the country to which they have fled; and less than 1% are offered an

opportunity to resettle in a third country. This leaves 95% of the world's refugees living in uncertain, precarious, and often dangerous conditions. As long as this remains the case, dire and desperate circumstances will drive a number of refugees to leave the country to which they first fled and seek asylum in another country. These journeys are frequently dangerous. Over the same time frame (2000-2014) that 1495 asylum seekers died en route from Indonesia to Australia, the International Office of Migration estimates that 22,400 died seeking to get into Europe.

Shutting down access to Australia without commensurate actions to ensure refugees are able to find resettlement opportunities means refugees in dire and desperate circumstances will continue to seek asylum, but will seek it in places other than Australia. They will continue to make dangerous journeys. Despite the claims that "stopping the boats has stopped the deaths at sea", critics point out that stopping the boats coming to Australia has simply exported the deaths to other parts of the world.

2. Critics argue that the current policy framework involves an unacceptable moral calculus. The policy punishes those who are innocent in order to deter others from boarding boats. Asylum seekers arriving by boat have committed no crime, but have availed themselves of a provision in international law. Critics argue that it is an anathema to principles of freedom and human decency to punish people who have committed no crime in order to achieve the objective of deterring others from taking a particular course of action. They point out that at the very core of contemporary liberal democracies is the commitment of the state and its citizens to defend the human rights of the individual.
3. Critics claim that the impact on children, women and men held in detention is devastating and that our compassion should drive us to seek better alternatives. Amnesty International, the United Nations High Commission on Refugees, a select Senate Inquiry, and the Moss Report (commissioned by the government in 2015) have concluded that living conditions in the detention centres are extremely harsh (on Nauru for example, detainees are housed in tents); that acts of violence, including sexual violence against women and children, are not uncommon and are likely under-reported; and that the absence of any hope of release and resettlement psychologically breaks many people. This makes the current policy framework inherently abusive.

An Alternative Approach

The current policy framework was developed out of a report commissioned by the Gillard government, known as "the Houston Report" or more formally as "Report of the Expert Panel on Asylum Seekers". This report emphasised the need for a two pronged approach: 1) measures to disincentivise travel by boat to Australia; and 2) a regional

system for processing and resettling asylum seekers. Both the Gillard-Rudd governments and the Abbott-Turnbull governments have implemented the first measures but neglected the second. Yet it is the second set of measures that are the key to a sustainable outcome.

The core concept behind a regional approach is that Australia works closely with other governments of our region to ensure that asylum seekers are able to find places where they can be safely and speedily processed, with those who are found to be refugees then being offered protection and those without a claim safely returned to their country of origin. This would eliminate the need for people to board boats, for they would have available to them the opportunity to find a durable solution within an acceptable timeframe. The expert panel recommended that a regional solution become a matter of the highest priority for the Australian government and that it begin with bilateral agreements with Malaysia and Indonesia under which Australia would take much larger numbers of refugees from these countries.

A Christian Response

The centre of Christian ethics is to love God with all our heart, soul, mind and strength, and to love our neighbour as ourselves. In filling out the meaning of this, Jesus made it clear that all who are in need are our neighbours and that to love is to put the interests of the other above one's own. It is difficult to argue that the current approach to asylum seekers and refugees meets the demanding standards of love. The implementation of the disincentivising measures recommended by the expert panel are seen by many as inherently violent and abusive. Yet even for those who defend them as a short term necessary evil, without a concurrent implementation of the positive measures we are left a policy framework in which human beings are being psychologically destroyed, subjected to violence, and stripped of hope for the future.

What can churches do?

First, your church can call on the government to make a regional agreement the highest priority in our refugee policy. This is where a sustainable solution lies. In refugee week (June) A Just Cause will be providing resources to help your church do this.

Second, your church can add its voice to others asking the government to allow the 267 asylum seekers in danger of being sent back to Nauru to remain in Australia. While this will not resolve the situation of the 2000 or so asylum seekers currently on Manus Island and Nauru, many feel that it is a compassionate response to the predicament of the 267 who are in Australia at present, a forward step on the journey to a better approach. A simple way you can do this is by gathering members of your church who are concerned about this and taking a photograph of yourselves holding signs that read "Let them Stay". Post these to social media and send a copy, along with a covering letter explaining your reasoning, to your local MP, the Minister for Immigration and Border Protection, the Shadow Minister for Immigration, and to the Prime Minister.

Third, your church may choose to declare its willingness to provide sanctuary to any of the asylum seekers in danger of being sent back to Nauru. This can be seen as an act of prophetic protest that recognizes that, while governments are called to be servants of God and the good (Romans 13), they can overreach and become oppressive (eg Daniel 2 & 7; 1 Samuel 8-10; Revelation 13). By offering refugees sanctuary your church is declaring that the State has overreached in its treatment of refugees.

A number of churches around the country have made such a declaration (see details at <http://www.acrt.com.au>). If your church does decide to go down this path you should do so with careful consideration and awareness of the implications. The offer of sanctuary, if taken up, means your church will be required to fulfil a promise to shelter refugees in your church building, to provide for their needs while they remain with you, and to refuse to hand them over to the authorities. The legal ramifications of pursuing this approach are unclear, but you should be aware that there may be consequences for you depending on how this plays out.

If you would like to discuss these matters further please call Scott Higgins on 0473 413 429 or via email mail@ajustcause.com.au. A Just Cause is a delegated ministry of Australian Baptist Ministries.