

Baptcare Social Policy Position Paper

Asylum Seekers

2012





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Asylum Seekers

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To ensure confidentiality, photographs contained within are not of actual Sanctuary clients.



Message from the Chief Executive

More than six decades ago, at a time when Australia was still in the last throes of war, a group of determined and compassionate Baptists saw a need for care for the older people in their local Melbourne community. Their united action established Australia's first Baptist home for the elderly and led to the founding of Baptcare.

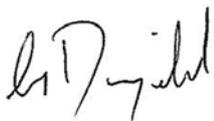
The social conditions and the issues facing Australia have changed markedly since those early years. Yet, we still share the same spirit as our founders. Our values fuel our commitment to care for others, to advocate for the weak and vulnerable, and to work towards a fair and compassionate society.

Today, Baptcare serves our community from more than 30 locations across Victoria and Tasmania. In addition to residential aged care, we provide care in the community, work with children and families, people with a disability, those in financial hardship, and – more recently – those seeking asylum from persecution abroad.

Baptcare's Social Policy Position Paper: Asylum Seekers is informed by our experience in providing support to asylum seekers since 2008 through our Baptcare Sanctuary program in Melbourne.

We hope that the release of this Position Paper continues the dialogue fostered by the Australian Baptist Ministries' release of a national advocacy *Policy on immigration and asylum seekers* in November 2011; and the resolution on asylum seekers presented to the Baptist Union of Victoria in October 2012.

We encourage Australians from all walks of life to join us in seeking to work towards a welcoming, compassionate and just solution to the needs of those seeking asylum among us.



Graham Dangerfield
Chief Executive

October 2012

About Baptcare Social Policy

Baptcare proactively responds to human need to create positive change through advocacy, a diverse range of services, and community engagement. As such, Baptcare has a critical stake in current philosophical, political and policy debates that directly affect disadvantaged people in Australia – in particular those in Victoria and Tasmania. We recognise that the manner in which governments, the community sector, churches and local communities understand disadvantage is crucial in determining solutions.

Recognising the inherent dignity and equality of all people – regardless of their circumstances – Baptcare advocates with and for those who have a limited voice in Australian society or indeed are rarely heard at all. We engage in research and advocacy on issues crucial to the needs of the people with whom we work. We draw on evidence from our own research and from external sources, from the services we run, and from the people for whom we provide services.

Baptcare's Social Policy platform is part of our commitment to work towards:

- increasing community understanding of social issues and concerns
- developing policy that is focused on solutions
- strengthening community relationships and building social inclusion
- improving programs and services for clients, and
- demonstrating our mission, vision and values.

About Baptcare Sanctuary

Sanctuary offers accommodation to asylum seekers living lawfully in the community awaiting an outcome on their protection visa application. Many of these individuals have no right to work, Medicare or income support, and so are completely reliant on charitable support for their food, housing and medical costs.

Sanctuary aims to provide supported accommodation to asylum seekers at risk of homelessness whilst establishing a model of sustainable community-based support for asylum seekers as a viable alternative to homelessness and destitution.

Baptcare currently has two Sanctuary facilities. Baptcare Sanctuary Brunswick accommodates 28 male asylum seekers. Baptcare Sanctuary Preston can accommodate 49 asylum seekers – 44 males plus a family of five in a self-contained unit.

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Abbreviations, Acronyms and Glossary

AHRC	Australian Human Rights Commission.
ASAS	Asylum Seeker Assistance Scheme.
Asylum Seeker	A person who flees their own country and applies to another country for protection as a refugee.
ASRC	Asylum Seeker Resource Centre.
ASP	Hotham Mission's Asylum Seeker Project.
CAS	Community Assistance Support.
CAT	Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984).
CPD	Centre for Policy Development.
CROC	Convention on the Rights of the Child (1989).
Community Detention	Community detention was introduced in 2005 and is a form of immigration detention where people reside in the community. Conditions of release range from being able to move about freely to a form of home detention, depending on the security or compliance assessment on the individual. Conditions can include having to be accompanied at all times by a designated person or immigration officer, reporting requirements, or being required to stay in approved accommodation.
DIAC	Department of Immigration and Citizenship.
Human Rights	A basic, universal freedom or entitlement inherent to all human beings.
ICCPR	International Covenant on Civil and Political Rights (1966).
ICESC	International Covenant on Economic, Social and Cultural Rights (1966).
IDC	International Detention Coalition.
Internally Displaced People	Internally displaced people have not crossed an international border to seek protection, but have remained inside their country of origin.
Mandatory Detention	An Australian Government policy which requires all unlawful non-citizens (or persons who, if they were in the migration zone, would be considered unlawful non-citizens) to be detained until they are granted or refused a visa.
Migrant	A person who chooses to leave their country and settle in another country.
NCCA	National Council of Churches in Australia.
PV	A protection visa is available to refugees as defined by the Refugees Convention, who pass character, security and health checks and sign the Australian Values Statement. This visa allows a refugee to live and work in Australia as a permanent resident, having access to Medicare and Centrelink services.
Refoulement	The forcible return of a refugee or asylum seeker to a country where his/her life or freedom may be threatened. Refoulement is a violation of the Refugee Convention.
Refugee	Any person who, owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his/her nationality and is unable, or owing to such fear, is unwilling to avail himself/herself of the protection of that country.
Temporary Bridging Visa	A short-term visa that allows asylum seekers work rights and access to health services while the outcome of their immigration status is resolved.
The Refugee Convention	United Nations Convention Relating to the Status of Refugees (1951).
UNHCR	United Nations High Commission for Refugees.
UNRRWA	United Nations Refugee Relief and Works Agency for Palestine.
45-day rule	A statutory rule introduced in 1997 that removed work rights and access to health services for persons claiming refugee status who did not apply for protection within 45 days of arrival in Australia. This rule was repealed in 2009, but the repeal was not applied retrospectively.

Asylum seekers in context

Baptcare calls for humane treatment and hosting of asylum seekers including: a reception program that involves a humane standard of living within the community, access to a timely and fair assessment of claims for asylum and protection, assurances against refoulement and clear, transparent processes for the review of decisions.

Baptcare opposes the practice of mandatory detention while asylum claims are being processed. Any asylum seeker awaiting the outcome of a protection visa application should have the opportunity to seek work and access essential services and other human rights protections. Where people are assessed as not having a need for protection they should only be returned in conditions of safety and dignity, with assurances of sustainable reintegration and external monitoring of the conditions to which they are being returned.

Background

People who seek asylum may be survivors of unthinkable torture and trauma. Most have been separated from their families and children.

Asylum seekers experience a multitude of health issues including increased levels of anxiety, depression and isolation, as well as diminished health and well-being (Asylum Seeker Project [ASP], 2010). Further, many are consumed with guilt at the thought they have abandoned their loved ones (ASP, 2011).

By definition, an asylum seeker is 'a person who flees their own country and applies to another country for protection as a refugee' (Australian Human Rights Commission [AHRC], 2011). According to the *United Nations Convention and Protocol Relating to the Status of Refugees* (UNHCR 2010a), a refugee is a person who is outside their own country and is either unwilling or unable to return to their country of origin due to a genuine fear of being persecuted because of factors such as race, religion, nationality, political opinion or membership of a particular group.

Currently, Australia continues to receive asylum seekers by means of air and sea travel. The issue of asylum seekers in Australia remains contentious, with the Australian public divided on the issue. For example, some declare the need to be tough on 'border protection' in order to discourage further arrivals, while others seek to identify alternative solutions that are embedded in the human rights and dignity of each individual who seek protection and asylum from persecution, terror, rape or war in their country of origin.

In the absence of bipartisan political intervention, the messages disseminated through the media are often inaccurate and value laden using language such as 'queue jumpers' and 'boat people' without critique (Edmund Rice Centre, 2001).



The Australian Government's response to the management and processing of asylum seeker applications is changing and unstable. In 2011, the Labour Government attempted to establish off-shore processing as well as a four year 'swap deal' with Malaysia. The proposal was to send 800 unprocessed asylum seekers from Christmas Island in return for Australia accepting 4,000 refugees from Malaysia. This arrangement was almost immediately challenged by human rights lawyers and was thwarted in the High Court.

More recently the government commenced a process of discharging some asylum seekers from mandatory detention into community placement. These people were provided with a 'revised' temporary bridging visa (TBV) which offers a mechanism that releases asylum seekers from detention whilst their claims are completed and their status is resolved. However, although the bridging visa allows the right to work (and access to health services and financial assistance), in practice it often leads to poverty and homelessness (ASP, 2010).

Those asylum seekers who are released from detention into the community receive Community Assistance Support (CAS) for 6 weeks. A re-assessment then determines if they will be provided with ongoing support or will be transferred to the Asylum Seeker Assistance Scheme (ASAS) program or will have all government support severed. While asylum seekers released from detention have work rights, they are not eligible for Centrelink support.

Many of the asylum seekers who live lawfully in Australia while awaiting resolution of their claim by the Department of Immigration and Citizenship (DIAC) have no access to healthcare or welfare support, and are blocked from labour force participation (Commonwealth of Australia, 2009). The consequences of this are profound, and include likely homelessness, poverty, ill-health and destitution.

The international context

According to the United Nations High Commission for Refugees (UNHCR, 2011a), there are approximately 15.2 million people worldwide who are refugees or classified as being in refugee-like situations. Of these, approximately 10.4 million are under the mandate of the UNHCR, and another 4.8 million Palestinian refugees are under the mandate of the United Nations Refugee Relief and Works Agency for Palestine (UNRRWA).

It is estimated that there are currently 876,100 persons seeking asylum globally, 17,700 unaccompanied children, and a further 13 million internally displaced people (UNHRC, 2011a).

The vast majority of the 10 million refugees in care of the UNHCR seek shelter in the least developed and poorest countries of the world (Centre for Policy Development [CPD], 2011). Persons who seek asylum in the industrialised countries mainly seek protection in Europe and North America. The two countries who receive the largest amount of new asylum claims amongst this same group of countries are the United States of America (55,500) followed by France (47,800; UNHCR, 2011b).

Table 1 shows the nations hosting the largest proportions of refugees (in care of the UNHCR), as well as Australia (UNHCR, 2010b). Considered in an international context, the relative number of people seeking protection in Australia is miniscule. In fact, Australia ranks 47th worldwide compared to all other countries hosting refugees. Australia, although wealthy in comparison to the nations near the top of the refugee intake tables, is far less generous than these other nations.

Table 1: Countries hosting the largest numbers of refugees (2009)

Country	Number (n)	Proportion (%)
1. Pakistan	1,740,711	15.3
2. Iran	1,070,488	9.6
3. Syria	1,054,466	9.4
4. Germany	593,799	5.2
5. Jordan	450,756	4.0
6. Kenya	358,928	3.1
7. Chad	338,495	3.0
47. Australia	22,528	0.2

Source: UNHRC (2010b)



The Australian context

Australia is obliged to protect the human rights of all asylum seekers and refugees who arrive in Australia, irrespective of method of arrival or whether or not appropriate documentation is presented. Australia is signatory to the *United Nations Refugee Convention* (1951), and is therefore bound to ensure that people who meet the definition of 'refugee' cannot be returned to their country of origin where their life or freedom would be threatened (AHRC, 2011).

Australia also has obligations not to return persons who face risk of violation of their human rights, and who are within Australian territory and jurisdiction, under the following treaties:

- *United Nations Convention Against Torture* (CAT)
 - *International Covenant on Civil and Political Rights* (ICCPR)
 - *United Nations Convention on the Rights of the Child* (CROC)
 - *International Covenant on Economic, Social and Cultural Rights* (ICESC).
- (AHRC, 2011; Asylum Seeker Resource Centre, 2012)

In 2002, the Australian government endorsed the conclusions of the United Nations High Commissioner for Refugees' Executive Committee, which stated:

"Asylum seekers should have access to the appropriate governmental and non-governmental entities when they require assistance so that their basic support needs including food, clothing, accommodation and medical needs are met." (UNHRC, No. 93 (LIII), 2002)

The Department of Immigration and Citizenship recently reported statistics regarding refugee intake into Australia for the period of 2004 to 2011 (DIAC, 2011a; summarised in Table 2). Clearly, the total intake of refugees into Australia changes little from year to year and is not related to the visa determination process (that is, offshore versus onshore processing). These numbers are extremely small compared with international counterparts, however much recent political spin and media hysteria would suggest otherwise (CPD, 2011).

Table 2: Australian refugee intake 2004–2011

Determination Process	Year						
	2004–05	2005–06	2006–07	2007–08	2008–09	2009–10	2010–11
Offshore	6,585	6,736	5,183	4,795	4,511	3,233	6,000
Onshore	5,511	6,022	6,003	6,004	6,499	6,003	7,750
Onshore (humanitarian)	1,065	1,372	1,793	2,131	2,492	4,534	
Total	13,161	14,130	12,979	12,930	13,502	13,770	13,750

(Department of Immigration and Citizenship, 2011a)

In 1997, the Howard Government introduced a statutory rule, known as the '45-day rule,' in an attempt to reduce non-genuine refugee applications. This rule removed work rights and access to healthcare for persons claiming refugee status who did not apply for protection within 45 days of their arrival in Australia. In 2009, the Rudd Government repealed the rule with the intention of allowing asylum seekers access to work rights and the ability to support themselves during the application process. It is significant that the repeal of this rule was not retrospective resulting in a cohort of asylum seekers who remain unable to secure work rights or Medicare (Commonwealth of Australia, 2009).

The consequences of Australia's policy

Being unable to work or access healthcare and welfare services while living in the community places those asylum seekers on a bridging visa in an untenable situation. This has the adverse effects of potential homelessness, poverty and destitution (ASP, 2007; Shaddick, 2011a).

The Asylum Seeker Project (2007) indicates that the policy to withhold work entitlements from asylum seekers has triggered a welfare crisis, including homelessness, health and dietary problems, isolation and depression. A consequence of the federal policy is that asylum seekers living in the community on bridging visas experience a life of abject poverty and social exclusion (ASP, 2010; Baptcare, 2010). Being denied the right to work or secure welfare support leads to homelessness, the inability to purchase food due to a lack of income, a deteriorating sense of personhood and increased anxiety.

Even until recent times, the housing needs of persons seeking asylum have been excluded in public policy debate on homelessness. For example, the Victorian Government's *Homelessness Strategy Action Plan and Strategic Framework* failed to make reference to homelessness amongst community-based asylum seekers. In 2008 the Federal Government's White Paper *The Road Home* completely ignored the plight of homelessness for asylum seekers (ASP, 2010). This is despite the Federal Government acknowledging that those who are homeless are amongst the most marginalised and vulnerable groups in our community, and that even short periods of homelessness can have enduring detrimental impacts (ASP, 2003; DIAC, 2009).

Despite the removal of the 45-day rule, it is not anticipated that extending work rights for asylum seekers will have a positive impact to secure housing. This may be attributed to factors such as:

- Bridging visas are short term, therefore placing a barrier on employer's opportunity to offer a permanent job
- Limited language, education, unknown work history and the absence of local references serve as barriers to gaining employment
- Complex health needs which may hinder labour force participation
- Difficulties experienced by asylum seekers accessing private rental accommodation, due to a lack of local rental and employment references, racism and other forms of discrimination (ASP, 2010).

The length of time it takes for granting asylum status has a detrimental impact on the health of asylum seekers, which in turn, has a direct correlation with the outcome of their immigration status and their capacity to satisfy the requirements of the protection application process. In 2006, DIAC implemented the Community Care Pilot which examined the impact of long term destitution on asylum seekers' health and immigration status. Findings of this study reported that 'when health and welfare issues are stabilised, clients are better able to think clearly, exercise choice and participate in the resolution of their immigration status' (DIAC, 2006).

As is widely accepted, increased levels of anxiety, depression, and other mental health issues are prevalent amongst those on a bridging visa (ASP, 2007; Shaddick, 2011b).

The impact of the current policy on asylum seekers results in a high level of family breakdown and it is particularly stressful for single mothers and younger asylum seekers. The only means of support for asylum seekers who are ineligible to work or secure welfare services is community and charitable church groups. However this is both unsustainable and inadequate for asylum seekers with high level needs (ASP, 2004).

By refusing the right to work or access to welfare services, current government policy prevents community-based asylum seekers from securing funds to purchase food and secure accommodation, as well as obstructing access to basic healthcare (ASP, 2007; Shaddick 2011b).

To this end, the current Australian policy fails to meet several international obligations for the provisions of basic, adequate standards of living and health care for people in our community (NCCA, 2006).

Baptcare's response

Baptcare is the welfare agency of the Baptist Union of Victoria and as such is embedded within the Baptist denomination. Baptists take seriously the teaching of the Bible as it relates to contemporary social and political issues, as well as decades of Christian thought and action for justice in the world.

A Theological and Biblical Response

The Bible presents a coherent and consistent emphasis on justice, grace and neighbour-love toward all who are in need, summed up most profoundly in the biblical concept of shalom, “a picture of community, of life in relationships, in which things are as they are supposed to be [and where people] live in harmony and delight with God, each other, and the world” (Sloane, 2008,p28).



There are many biblical principles of love and justice which apply to refugees and asylum seekers (e.g. Micah 6:8; Matthew 22:34–40; Luke 1:46–55; 10:25–37; Romans 12:13; Hebrews 13:1–3; James 2:15–17). In Jesus' parable of the sheep and the goats, the king declares that the faithful may enter the kingdom because “I was a stranger and you welcomed me ... whatever you did for one of the least of these brothers and sisters of mine, you did for me” (Matthew 25:35,40). Ezekiel 47:22 demands that refugees be accepted and afforded the foundations of economic security and treated with equality. ‘They shall be to you as citizens’ (Brett, 2011).

It is important that any society which has a passion for justice should stand up against any system which overlooks injustice, especially when it refers to vulnerable people. From a Christian perspective, such injustice goes further: it denies the very roots of the creation story as affirming each person as made in the image of God and worthy of dignity and respect (Stott, 2006).

While there continues to be a diversity of opinion within the Australian community on the question of how we are to respond to asylum seekers, that diversity will tend to be reflected within the Christian community. Sharing the motivations of Christ is the unique contribution Christians may make to this discussion, and to the lives of the asylum seekers (Fowler, 2011).

Baptcare mission and values

Central to the consideration of Baptcare's position regarding asylum seekers are Baptcare's values, encapsulated in *The Parable of the Good Samaritan* (Luke 10:25–37), *The Parable of the Workers in the Vineyard* (Matthew 20:1–16) and *The Parable of the Talents* (Matthew 25:14–30).

Baptcare's values are:

Respect: We value the inherent dignity and equality of all people regardless of their circumstances

Justice: We value equality of opportunity and consistency of outcome for all

Commitment: We value dedication to meet the challenges of our Mission

Integrity: We value consistency between word and deed

Accountability: We value the acceptance of personal responsibility

Co-operation: We value working together towards our goals.

Baptcare's position and response to asylum seekers is consequently driven by values that acknowledge the inherent dignity and equality of all people regardless of their circumstances, the equality of opportunity and consistency of outcome for all, and consistency between word and deed.

Baptcare's service provision response: Sanctuary

In 2008, Baptcare launched Sanctuary – a facility that offers transitional supported accommodation to male asylum seekers who live lawfully in the community awaiting an outcome on their protection visa application.

An alternative to detention centres, Baptcare Sanctuary aims to provide free (or low cost) supported accommodation to male asylum seekers who are at imminent risk of homelessness, whilst establishing a model of sustainable community-based support. Further, Baptcare Sanctuary aims to improve the psychological wellbeing of residents, by establishing a positive community connection through strengths-based and empowerment models. Residents are supported to secure the best possible outcomes throughout the asylum seeker process, including those that secure refugee status, and those who are unsuccessful and are subsequently returned to their country of origin.

Baptcare Sanctuary provides a range of services to its residents including pastoral care, case management, access to support services (medical, legal, counselling etc.) and the opportunity to participate in a range of social activities.

Most of the residents at Baptcare Sanctuary Brunswick have no right to work and are denied access to Medicare, other necessary health services and welfare support. Most are wholly reliant on charitable support for their housing, food and medical costs.

To date, our 28-bed facility at Brunswick has assisted over 100 asylum seekers from across the world. Most of these men have been forced to flee their homeland due to war, terror, torture and persecution. It is on the basis of this experience in providing support through Sanctuary that Baptcare opposes the mandatory detention of asylum seekers.

A new facility – Sanctuary Preston – substantially expands our Baptcare Sanctuary program to provide accommodation for an additional 44 males and a family in a self-contained apartment.



Baptcare's policy response

Baptcare calls on the Australian Government to meet its international humanitarian obligations and provide a vastly more humane process for people arriving in Australia seeking protection and asylum.

Baptcare's policy position echoes the statements made by the Baptist Union of Victoria at their October Gathering (2011) and by the Australian Baptist Ministries (2011) as described below.

In the light of the principles and issues outlined above, and the biblical mandate to care for the 'stranger'; to support the oppressed and to express kindness, mercy and justice in all our ways, Baptcare:

1. **Affirms the right of all persons to:**
 - a. live in dignity and peace in their homeland
 - b. migrate to support themselves and their family
 - c. seek asylum and claim refugee status owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion.

2. **Calls on the Australian Government to:**
 - a. reduce the rate of asylum claims by addressing human rights violations in countries of origin and disempowering people smugglers
 - b. pursue policies that seek to strengthen regional cooperation and expand protection of asylum seekers and refugees in the region
 - c. further increase the annual quota of UNHCR-registered refugees over the next five years
 - d. process claims for refugee status expeditiously
 - e. abolish the practice of mandatory detention while asylum claims are being processed
 - f. place child asylum seekers in community detention while their claims for refugee status are assessed
 - g. cease the practice of sending unaccompanied minors to third countries.

3. **Calls on all Australians to oppose xenophobia and discrimination on the basis of race, ethnicity, culture and religion.**

4. **Calls on all Australian politicians to demonstrate their moral convictions and to exercise ethical and non-partisan leadership in political and policy debates on immigration and refugee policy.**

5. **Encourages Australian Baptist churches, groups, families and individuals to consider how they can further:**
 - a. promote quality teaching and learning on immigration and refugees
 - b. act as advocates for asylum seekers, refugees and migrants
 - c. oppose offshore detention of asylum seekers and refugees
 - d. oppose mandatory detention of asylum seekers and refugees
 - e. develop ministries of welcoming, reconciliation and social integration
 - f. extend hospitality through intentional friendships and relationships
 - g. freely share resources with those in need.

In conclusion, Baptcare calls for humane alternatives including a reception program for asylum seekers that involves a humane standard of living within the community (at significantly less cost than mandatory detention), access to a timely and fair assessment of their claims for asylum and protection, assurances against refoulement (that is, involuntary return to a country where persecution is likely to be faced) and clear, transparent processes for the review of decisions.

Baptcare opposes the practice of mandatory detention while asylum claims are being processed. Any asylum seeker awaiting the outcome of a protection order should have the opportunity to seek work and access essential services and other human rights protection.

Where people are assessed as not having a need for protection they should only be returned in conditions of safety and dignity, with assurances of sustainable reintegration and external monitoring of the conditions to which they are being returned.



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Baptcare proactively responds to human need to create positive change through advocacy, a diverse range of services and community engagement. Baptcare supports children, families, people with a disability, financially disadvantaged people and asylum seekers, and provides residential care and community care for older people. Baptcare works across Victoria and Tasmania.