

THE LAW SOCIETY OF NEW SOUTH WALES youngLAWYERS

NSW Young Lawyers call on both major parties to reaffirm their commitment to international conventions to which Australia has ratified in relation to refugees and asylum seekers, including the 1951 Refugee Convention and its protocol. In doing so, it is essential that the human right to claim asylum from persecution be recognised and respected by both political parties.

NSW Young Lawyers (**NSWYL**) are concerned:

- the distinction between the legality of claiming asylum, and the illegality of people smuggling is being blurred in the announcements of both major parties; and
- proposals to curtail asylum seekers' access to legal representation in Australia and proposals to use regional processing centres, particularly in countries that are not signatory to the 1951 Refugee Convention, risks denying them natural justice.

"We call on both the Labor party and the Coalition to reaffirm their commitment to abide by Australia's international obligations and treat refugees and their rights under Australian and international laws with respect" Pouyan Afshar, President of NSWYL said.

Seeking asylum or applying for refugee status in Australia is not a crime and the rights of refugees are protected by international obligations, which apply to Australia. Diane Barker, Chair of the NSWYL International Law Committee said "It is of significant concern that both major political parties' campaigns are focused upon how best to stem the flow of perceived "illegal boat people". The erroneous perception that asylum seekers and those applying for refugee status in Australia have entered the country illegally ignores the status of refugees under international law. The political rhetoric is presently devoid of any consideration of Australia's obligations towards refugees and asylum seekers under international law".

Afshar said: "We are concerned by the conflation of the treatment of asylum seekers and the punishment of people smugglers. These are two different issues. Whilst we support appropriate punitive measures towards people smugglers, we do not support policies that punish refugees, who are themselves victims not only of persecution but also of the smugglers. Any policy that has that effect is inherently unfair and in contrast to the values of fairness and justice, which are values we are committed to uphold".

Whether it is within or beyond our borders, Australia must ensure that the rights and protection of people seeking asylum are maintained:

We are concerned about proposals to abolish or limit refugees' access to free legal representation in certain circumstances in Australian tribunals and courts. Carolina Soto, Chair of the NSWYL Human Rights Committee said "denying one of the most vulnerable groups the chance of being legally represented and to be able to understand their legal rights fully and without limitation by a trained lawyer in any circumstance is wholly contrary to their right to justice".

Beyond our borders, the proposed use of regional processing centres, particularly in countries that are not signatories to the 1951 Refugee Convention such as Nauru, risks exposing refugees to sub-standard status determination processes, inadequate legal protections and rights of appeal, and ultimately, denial of natural justice.

NSWYL remain committed to justice, support of due process for refugees and the protection of their human rights. Afshar said "Refugees are simply people who are escaping persecution from some of the most terrible places in the world. It is incumbent upon our political leaders that, when legal and bureaucratic machineries of government are concerned, people are treated with the same degree of fairness and equity that we have come to expect from our legal system".

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