



THE LAW SOCIETY
OF NEW SOUTH WALES

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11 August 2022

Dr James Popple
Chief Executive Officer
Law Council of Australia
DX 5719 Canberra

By email: matthew.wood@lawcouncil.asn.au

Dear Dr Popple,

Discussion Paper – Humanitarian Program 2022-2023

The Law Society appreciates the opportunity to contribute to the Law Council of Australia's submission to the Department of Home Affairs regarding its Discussion Paper on Australia's Humanitarian Program 2022-23. The Law Society's Human Rights Committee has contributed to this submission.

The United Nations High Commissioner for Refugees (**UNHCR**) now estimates that there are over 100 million displaced persons around the world.¹ In light of these record numbers of global human displacement, the Law Society supports the Law Council's continued advocacy in seeking a sustained increase to Australia's Humanitarian Program. The need for expanded resettlement options was underscored in the 2016 New York Declaration² and the 2018 Global Compact on Refugees³ where Australia pledged to 'ease pressures on host countries' and 'expand access to third country solutions' for refugees.⁴

Since 2012, the Report of the Expert Panel on Asylum Seekers recommended increasing the size of the Humanitarian Program to a target of at least 20,000.⁵ We note that the Australian Labor Party's 2021 National Platform indicated an aspiration to progressively increase the intake to 27,000 per year as well as making an additional 5000 places available through the Community Sponsorship program.⁶ The Law Society recognises the benefits of safe, lawful pathways to protection and would welcome a commitment from the Government

¹ UNHCR, 'Ukraine, other conflicts push forcibly displaced total over 100 million for first time' (Media Release, 23 May 2022), <https://www.unhcr.org/en-au/news/press/2022/5/628a389e4/unhcr-ukraine-other-conflicts-push-forcibly-displaced-total-100-million.html>.

² New York Declaration for Refugees and Migrants, UNGOAR, 71st sess, Agenda items 13 and 117, UN Doc A/RES/71/1 (3 October 2016) ('**New York Declaration**')

³ Global Compact on Refugees, UN doc A/73/12 (Part II) (2 August 2018).

⁴ New York Declaration, Annex 1, Comprehensive refugee response framework, para 18.

⁵ Air Chief Marshal Angus Houston AC, AFC (Ret'd), Paris Aristotle AM, Professor Michael L'Estrange AO, Report of the Expert Panel on Asylum Seekers, August 2012.

⁶ Australian Labor Party, ALP National Platform as adopted at the 2021 Special Platform Conference, 123, <https://alp.org.au/media/2594/2021-alp-national-platform-final-endorsed-platform.pdf>.

to these proposed increases, particularly in light of the reduction in resettlement places provided by Australia in recent years due to the pandemic.

If the Government increases the size of Australia's Humanitarian Program, the Law Society is of the view that it should prioritise family reunification for recipients of the Humanitarian Program and increase such family reunification visas in addition to the places reserved for humanitarian visas.

Furthermore, we consider that Australia's resettlement program must retain some degree of flexibility to respond to crises as they emerge. As noted by the UNSW Kaldor Centre for Refugee Law, special humanitarian intakes in response to large-scale crises help to 'promote international solidarity and responsibility-sharing, as well as protection and durable solutions for those with the greatest protection needs' while also relieving the pressures experienced by front-line States hosting an influx of refugees.⁷ An example of such flexibility was the special humanitarian intake of refugees from Syria and Iraq between 2015 and 2017, which has since provided a blueprint for intakes from Afghanistan and Ukraine in recent years. In this context, consideration could also be given to advocating for a special intake of Rohingya and other displaced persons currently residing in Bangladesh, given that conditions currently do not allow a safe, voluntary return to Myanmar.

In the experience of some Law Society members, processing of humanitarian visas can be slow and cumbersome. We therefore recommend that consideration also be given to reviewing departmental processes and procedures to ensure appropriate staffing and efficiency as far as possible.

The Law Society supports the call of the Law Council to establish long-term, durable solutions for all refugees and asylum seekers who have sought protection from Australia, including an end to mandatory and indefinite detention. We consider the Law Council should continue to raise grave concerns about this scheme, particularly in light of Australia's commitments under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.⁸

Thank you for the opportunity to contribute to the Law Council's submission. Questions at first instance may be directed to Sophie Bathurst, Policy Lawyer, at sophie.bathurst@lawsociety.com.au or (02) 9926 0285.

Yours sincerely,



Joanne van der Plaats
President

⁷ UNSW Kaldor Centre for International Refugee Law, Kaldor Centre Principles for Australian Refugee Policy, March 2022, 19.

⁸ Australia ratified the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment in December 2017.