



The 2003-2004 Humanitarian Program

**A submission to the Minister for Immigration and
Multicultural and Indigenous Affairs**

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February 2003

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2003-2004 Humanitarian Program Submission

MacKillop Family Services – History, Ethos and Values

MacKillop Family Services, established in 1997, is a specialised provider of child, youth and family services to some of the most marginalised families in Melbourne and Geelong. Key areas of support include family preservation, specialist education, residential services, disability services, youth services and foster care. This work is coordinated through over 80 services and the efforts of some 350 staff and a further 350 volunteers.

We work together to foster hope in every person by awakening them to an appreciation of their self-worth. Through a diversity of creative programs we resource children, young people and families who have particular needs, to empower them to achieve their full potential within the wider community. We stand with those who struggle for justice, peace and hope, and, in partnership with those on the margins, advocate for positive social change and a just society.

MacKillop Family Services response to the Discussion Paper

1. Overview

We welcome the opportunity to respond to the Discussion Paper on the 2003-04 Humanitarian Program. MacKillop Family Services is concerned about the rhetoric and policy direction that have been developed by the Federal Government. We believe that terminology like “illegals”, “queue jumpers” and “people like that” is divisive, inaccurate and unnecessary. We find the current Government’s policy directions opposed to our values: respect for human dignity, compassion, justice and hope.

These policy directions include:

- ❖ the Pacific Solution
- ❖ the introduction of the Temporary Protection Visas (and the proposed extension of mutual obligation principles to recipients of Special Benefit within the Family and Community services Legislation Amendment Bill 2002)
- ❖ the merging of immigration policy with refugee policy and
- ❖ the ongoing detention policy, akin to a jail like policy.

In no way do these policy directions bear any resemblance to a **Humanitarian Program** developed by an Australian Federal Government espousing the rhetoric of a ‘fair go.’

In particular, we are concerned with the significant tension between the dual responsibilities for the State to protect its citizens, and to protect the human rights and wellbeing of refugees. These State responsibilities should be complementary. At present

the human rights and wellbeing of the refugees is being compromised in the name of border protection. The international community is judging Australia by its policies and Australia's Border Protection Policy is not respecting the dignity and inviolable human rights of every person. Border protection should not be the driving impetus behind refugee protection. This is human rights policy in reverse.

We want to advance the following principles which are essential to a **humane** Humanitarian Program.

2. A Humane Society is a Relational Society

Respect and trust for one another is the core of a relational society. For us to trust and respect one another means seeing our shared humanity first rather than focusing on differences which builds a community anxiety based on fear. At present we are building and teaching a destructive attitude based on mistrust and a lack of compassion. A closed humanity is ultimately an endangered species – to be human is to be open to the possibility of new social relationships.

Although we see the need to protect the Australian community, the harshness of the current Federal policy is unacceptable. Acknowledging people who are different from ourselves is essential to building a relational society which is trusting and respectful of difference. We would like to see a Humanitarian Program that places Australia at the forefront of the international community, as a helping, compassionate society which openly encourages human interaction with people who are different from ourselves.

3. The Pursuit of Justice

As Emeritus Professor John Malony remarked, 'The purpose of civil society is the common good. In that society, social justice regulates the relationships of the citizens to each other, to the state and to the nation. Social justice also forms the basis of a proper relationship between Australia and other nations'(Malony, 2002:1)

We are concerned about the consequences of harsh humanitarian policies, under the guise of border protection, for Australian civil society and our relations with the international community. For example, there have been a number of scathing reports by the international community which the Federal Government has treated with indifference. These include:

- ❖ Justice Bhagwati June 2002 report titled, "Human Rights and Immigration Detention in Australia"
- ❖ Human Rights Watch Report "By Invitation Only" Australian Asylum Policy 2002
- ❖ UN Report of the Working Group on Arbitrary Detention 2002.

These reports have noted that Australia is far from embracing its International Human Rights obligations, with Justice Bhagwati writing that the human rights circumstances of

people in the detention centers is a “matter of serious concern” and that a “more humane approach would certainly be desirable” (Bhagwati, 2002:19).

Australian detention camps are the only ones in the world where non criminals are locked up indefinitely without trial and without swift legal representation. They are a modern day injustice for a developed democratic nation like Australia. Australian laws and policy can still be designed to protect Australian citizens without creating a process which appears to deny access to the justice system for people who are in most need of justice. This inhibits the growth of a relational society.

4. The Human Person

The Vatican Aide’s permanent observer to the UN office in Geneva, Archbishop Diarmuid Martin, reminded us that “Refugees are not simply clients of humanitarian workers. They are people who have been offended in their dignity, often at an early age. The aim of international protection is to provide them the space within which to recover their sense of dignity and worth” (Martin, October 2002:Address).

In a spirit of hospitality, we should be welcoming asylum seekers. Australia’s role, as our international obligations demand of us, is not to further offend their dignity by locking asylum seekers up, but to listen to their stories in an atmosphere of compassion. This does not mean that having listened to these stories, that we cannot make judgements based on fact as to their eligibility for refugee status. This is precisely what we should be doing. But at present, we are not welcoming and we are not listening to their stories in a respectful and non-judgmental manner.

Further, we are not valuing people for who they are but rather by what they can do or what they can produce. We understand the argument that Australia may need certain skilled people. This though, is the function of a good migration program, and people’s skill or usefulness should not be used as a means to an end for Australia’s economic benefit. The needs of the State cannot be put before the needs of human beings seeking asylum.

5. Specific Question Response

MacKillop Family Services finds the following question from the discussion paper most disturbing:

How can we assist the broader community to distinguish between unauthorised arrivals and those refugees and humanitarian entrants the Government has welcomed?

A distinction should not be made between the different way people seek refuge in Australia. Some people seeking refuge in Australia have better means of planning their arrival to this country. These people are likely to be in countries where there is a UNHCR base where their application for asylum can be processed. If these people have already

fled their country, they may be in refugee camps where they will eventually be referred by UNHCR to Australia. These are the people the government has “welcomed”. However, this process is extremely slow. According to the UN, the official number of refugees resettled to Australia via refugee camps saw 21 Afghani refugees resettled in 2000 (Kairos, 16-23 September 2001). This ‘legal queue’ is too slow. It is estimated that there are 21 million refugees in the world. UNHCR cannot process these people quickly enough before they spend years in the refugee camps waiting.

Other refugees have had to flee their countries more quickly, or as an alternative to waiting in the camps have begun to make their own way to Australia, arriving often by boat at great risk to their lives. This should not mean however, that they are not welcome as refugees on Australian shores. To distinguish between these two lots of people as legal and illegal refugees creates an exclusionary and divided Australia. Further, if the Federal Government combines the ‘onshore’ and ‘offshore’ refugees so it more readily meets its 12,000 place Humanitarian Program quota, then it can hardly ask the public to distinguish between how these people arrived.

All people are legal ‘genuine refugees’ until proven otherwise. All people have the right to seek asylum under article 14 of the Universal Declaration of Human Rights, “everyone has the right to seek and enjoy in other countries freedom from persecution.” It is, therefore, the moral responsibility of the Australian government, as a signatory to the Declaration, to not treat these refugees as ‘unauthorised’ but rather to recognise their status as ‘genuine’ refugees.

Family reunions and long term temporary placements

How refugees arrive in Australia extends to the type of visa they are granted. MacKillop Family Services believes the Temporary Protection Visa (TPV) is destructive to family living. Penalising family reunion is of particular concern. Article 18 of the Convention on the Rights of the Child clearly establishes the importance of two parents raising children: “States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child”. However this policy has led, in some cases as Justice Bhagwati has stated in his report, to where some families are in detention centers while others are in the community. This adds further distress to family members who have been deemed ‘genuine refugees’. It also shows a contradiction in current Liberal family policy which states: “By nurturing and cherishing their children, Australian parents are building our future. Happy and healthy families are the best way to ensure that children get the right start” (Stronger Families and Communities 2001:3). The TPV policy does not allow for ‘happy and healthy families’.

The East Timorese asylum seekers in Australia are a special category of people made so because of Federal Government indecision. The East Timorese who have been in Australia since 1994 on bridging visas have been waiting in limbo since then to have a first decision made on their refugee applications. In this time, the East Timor people have

adapted to life in Australia including having children born in Australia. Only after ten years and after East Timor has become independent, has the Australian government begun assessing their applications for claims for protection in the *current climate*. This means most, if not all, refugee applications will be rejected, as has been the case for the first 168 applications.

Forcefully removing families at this late stage who have managed to build a new life in Australia contradicts Liberal Party family policy. It is causing great distress to these people. This stance is not justified for any purpose or reason. We are further alienating our closest neighbors and building a reputation in the international community for intolerance and cruelty. Instead, we should be extending a hand of friendship and hospitality to the East Timorese and encouraging them to build new lives in Australia and establishing new links with their home land if they so desire.

Conclusion

MacKillop Family Services wants to reiterate the importance of building a relational society. This means valuing people for who they are and being compassionate to the circumstances in which the refugees reach Australian shores. There is a more humane way of approaching the worldwide phenomenon of displaced persons seeking asylum. Australia's policy is unnecessarily harsh. The policy is causing massive human distress. It is a policy that is creating division in the Australian community. MacKillop Family Services' values and practices are about healing divisions and so we find the Federal Government asylum seeker policy the antithesis to our practice. Australian policy cannot be about the business of exclusionary practice if, as the Liberal government website suggests, they would like an inclusive and fair society. The international community is judging Australia by its policies and Australia's Border Protection Policy is not respecting the dignity and the inviolable human rights of every person.

We must strive through our policies to become a just society and a leader in the world for human rights. To do this does not mean that the right and duty of the State to protect its citizens should in any way be diminished. At the same time the human person can never be placed second behind the State and it should always be the role of the State, in a democracy like Australia, to protect first the rights of the human person. Both goals, state protection and human rights protection, can be achieved with a fair and humane refugee policy.

References

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