

Australian Churches Refugee Taskforce



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**Submission to the Department of Foreign Affairs and Trade, White Paper
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The Australian Churches Refugee Taskforce

The Australian Churches Refugee Taskforce ('the Taskforce') is an initiative of the National Council of Churches in Australia ('NCCA') and came together in early 2013. It is comprised of 22 Senior members of clergy, nine Christian denominations and three ecumenical bodies. It has 930 entities as network members.

We welcome the opportunity to provide a submission to the DFAT White Paper 2017.

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1. Executive Summary

Our key interest in relation to the proposed White Paper is in the intersection between our foreign, security and immigration policies. More specifically how these are expressed in relation to this era of significant global displacement, and the movement of refugees and people seeking asylum.

Our current approaches are not sufficient for our times.

In particular we draw attention to how such inadequacy have manifested in our current refugee policy. Although ostensibly claimed in some public discourse as being a “success” we suggest that a properly “clear-eyed” and broader of assessment of our approach reveals a human and policy disaster.

Our White Paper should include a strong and principled ethical framework.

This entails attempting to:

- Move beyond, or at least broadening our current approaches in theory and practice so that we are better able to deal with a world of increasing social complexity and fragmentation, transnational issues, actors and networks.
- Shift our starting point for thinking, from an assumption of an anarchical world, as such “realism” narrows our thinking and creates ideological blind spots; to one which opens up a more positive trajectory, and more possibilities for peace, justice and human flourishing.

It also includes:

- Taking seriously the need to develop a strongly principled, ethical grounding for our White Paper. A *global security ethics* may be one starting point for this.
- More deeply considering a range of principles and practices, concepts and methods, which might ground us ethically and ensure that it is embedded in our practices.
- Recognising that our peace and prosperity is dependent on a global rule based order built on a commitment to universal human rights. In espousing these universal rights, and any “Australian values” we must challenge ourselves to live them, not just pay them mere lip service.

Acknowledging also that:

- We are in a period of increasing global interdependencies and social complexity. Through better understanding complexity, we can use more appropriate methods to more effectively navigate it.
- Global migration and refugee flows are an increasing feature of this interconnected world. This provides challenges, but the countries better prepared to manage these and smooth the process of integration, can turn them into significant economic benefits.

A strong and principled ethical framework can operate in part as our heuristics for navigating our era of increasing complexity; they can be our lighthouses, helping us avoid moral hazards, whilst sailing through the darkest of nights. We need to take seriously this endeavour and foster a cross-disciplinary dialogue in order to achieve it.

Such an approach may also provide the basis for a more transformational foreign policy.

There is a better way forward for our response to refugees and people seeking asylum

- More specifically to Australia can change its approach to people seeking asylum, there are alternatives to our current deterrence regime that offer both ‘orderly’ migration pathways and meet our international human rights obligations. One significant way is through a system of ***protection sensitive migration***.
- This combines both a more deeply ethical commitment and pragmatism. It is a more adaptive and sophisticated mechanism to handle our response to forced displacement and refugee populations. It better prepares us for future challenges.

2. Our current approaches are insufficient

2.1 Dramatic global changes since the last White Paper

There have been dramatic changes since the last white paper in 2003, on multiple fronts. Some of the major changes and events have included:

- Allied intervention and war in Iraq, that continues today.
- An increase in transnational terrorist threats including Daesh, and domestic self-radicalisation.
- The Global Financial Crises (GFC) and recession in many developed countries.
- The Arab spring, downfall of multiple regimes and outbreak of Syrian civil war.
- Brexit leading to uncertainty about the future of the European Union.
- Unexpected electoral results in the US and uncertainty about US policy direction.
- The rise of far-right and/or “populist” parties and illiberal sentiments throughout the West.
- Rising of extreme weather events, as climate change becomes ever more pressing.
- Increasing global connectivity - in trade, civil society and personal / familial relationships.
- Advancement in technology, including mobile platforms, social media and robotics.
- Increasing Australian immigration & population diversity¹

We are in a time where the Munich security report 2017 now asks if we are in a “Post-Truth, Post-West, Post-Order world?”² Of five “key issues” which the Munich report identifies, one is forced migration, which they predict is ‘likely to get even more pronounced in the future.’³ Driving dynamics include ‘environmental stress, Africa’s demographic surplus as well as low fertility rates and skill gaps in developed countries, failing states, and conflict.’ They suggest the management and coordination of this global displacement of peoples will remain a key issue.⁴

2.2 Moving beyond our current paradigms

With such sweeping change in the last 15 years, it has become more apparent than ever, that the current paradigms and approaches, that have held over from the last century are now insufficient. Though offering many opportunities, the current times are also more complex, ambiguous and volatile. Dark clouds of illiberality loom on the horizon.

In this respect we firmly agree with Minister Bishop that the White Paper should seek to be a “philosophical framework” to guide us through these times.⁵ This is precisely why we stress **now is the time to seek clarity about what values we both hold and are willing to uphold; to set out clear principles and practices - an articulated ethics and ethical commitments within the framework - for which we might consistently engage the world.**

Many salient critiques have been made of the shortcomings of the dominant paradigms of both “realist” thought and “liberalism” (or “liberal internationalism”) over the last two decades and we will not repeat them at length in our submission.⁶ We briefly note some key aspects of these paradigms and approaches below, in particular in relation to refugee policy, then set out further below some considerations we believe are pertinent to the White Paper.

¹ Australia now has ¼ of the population born overseas and around half have at least one foreign-born parent. See: <https://www.humanrights.gov.au/face-facts-cultural-diversity#fn1>. Immigration has been increasing and plays a significant role in our growth. See: http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/BriefingBook43p/populationgrowth

² Munich Security Report 2017, *Post-Truth, Post-West, Post-Order?* At: <https://www.securityconference.de/en/discussion/munich-security-report/>

³ Munich Security Report 2017, 46-48.

⁴ Munich Security Report 2017, 46.

⁵ James Massola, ‘Julie Bishop puts new DFAT boss to work on first foreign policy white paper in 13 years.’ *The Sydney Morning Herald*, 19 August 2016: <http://www.smh.com.au/federal-politics/political-news/julie-bishop-puts-new-dfat-boss-to-work-on-first-foreign-policy-white-paper-in-13-years-20160819-gqwkkm.html>

⁶ See for instance Jim George, *Discourses of Global Politics: A Critical (Re)introduction to International Relations*, Lynne Rienner Publishers: Boulder, (1994); and Anthony Burke, Kat Lee-Koo and Matt McDonald, *Ethics and Global Security*, Routledge: Oxon, (2014).

2.3 Refugee policy as case study of a failing approach

To create an overarching 'philosophical framework' and set a strategic direction, such as the current White Paper is attempting, requires honestly examining the broader impacts and outcomes of our *current* actions. The current Australian commitment to offshore detention and boat turn backs, premised on "deterrence," has come to grossly dominate policy, the public discourse and capture significant resources.⁷

Perhaps the most significant recent indication was that the Australian Prime Minister's first conversation with the incoming US President sought to guarantee the "refugee deal" made with the Obama Administration. With so many pressing international issues and deep uncertainty about the direction of US policy, it is telling that this issue was the centrepiece and subsequently the subject of international embarrassment, with President Trump tweeting it was a "dumb deal."⁸

A 'clear eyed' look at the intersection of security, foreign policy and immigration, reveals significant signs of failure in both policy and practice, most relevantly for us, refugee policy,⁹ which we suggest:

2.3.1 Affects our international standing and leadership

- We have faced ongoing and fierce criticism for ongoing human rights abuses, by an array of international bodies and non-government actors over several years, including Human Rights Watch, Amnesty International, Save the Children, and UNICEF amongst others.¹⁰
- The UN Committee against Torture found offshore detention created serious physical and mental pain and suffering,¹¹ and the UN Special Rapporteur found that Australian actions violated the right of the asylum seekers, including children, to be free from torture or cruel, inhuman or degrading treatment.¹²
- During the UN periodic human rights review, many countries, including refugee-producing regimes such as Iran, had ample grounds on which to attack or critique Australian actions.¹³
- There has been adverse media around the world. For instance the *New York Times*, one of the most influential broadsheets in the world's headline piece, "Broken Men in Paradise: The world's refugee crisis knows no more sinister exercise in cruelty than Australia's island prisons."¹⁴ In an inverse fashion, public "endorsement" of our policies by German neo-nazi extremist groups, is cause for concern.¹⁵
- The Lowy Institute has pointed to its detrimental effect on Australia's international reputation¹⁶ and a former defence strategist has noted that, 'our refugee policy, in the guise of a border security policy, has been a disaster. We are seen in the UK and the US as lacking both compassion and smarts.'¹⁷
- In recent days Stanford Law school, supported by a range of international jurists, has lodged a 'well researched brief' with the prosecutor of the International Criminal Court (ICC) seeking to have it investigate Australia for enabling a range of crimes against humanity.¹⁸

⁷ We note the significant work of our diplomatic corp, development programs (albeit significantly reduced in recent years), and the modest (in numbers) though very respected offshore humanitarian program.

⁸ The point here is not to criticize the deal itself but the broader impact of these policies. Many churches would welcome the US deal succeeding.

⁹ Though see also *Attachment 1* our brief overview of Australian war involvement, as it relates to our submission.

¹⁰ For instance an October 2016 report by Amnesty International concluded that the Australian government's policy has been "explicitly designed to inflict incalculable damage on the hundreds of women, men and children on Nauru." – Amnesty International, *Island of Despair: Australia's "Processing" of Refugees on Nauru* (2016). At: <https://www.amnesty.org/en/documents/asa12/4934/2016/en/>.

¹¹ The Committee examined Australia's transfer of asylum seekers to the regional processing centres in Nauru and Papua New Guinea, and noted that "[t]he combination of the harsh conditions, the protracted periods of closed detention and the uncertainty about the future [in both centres] reportedly creates serious physical and mental pain and suffering": UN Committee against Torture, Concluding observations on the combined fourth and fifth periodic reports of Australia, CAT/C/AUS/CO/4-5, 23 December 2014, para 17.

¹² March 2015, former U.N. Special Rapporteur Juan Méndez concluded that Australia had 'violated the right of the asylum seekers, including children, to be free from torture or cruel, inhuman or degrading treatment.' <http://static.guim.co.uk/ni/1425873116713/Mendez-report.pdf>

¹³ Ben Doherty, 'UN countries line up to criticise Australia's human rights record', *The Guardian* 10 November 2015. At: <https://www.theguardian.com/law/2015/nov/10/un-countries-line-up-to-criticise-australias-human-rights-record>

¹⁴ Roger Cohen, 'Broken Men in Paradise: The world's refugee crisis knows no more sinister exercise in cruelty than Australia's island prisons.' *The New York Times*, 9 December 2016. At: https://www.nytimes.com/2016/12/09/opinion/sunday/australia-refugee-prisons-manus-island.html?_r=0

¹⁵ Amos Roberts, 'German Neo-Nazis praise Australia's refugee policy', *SBS News*, 3 March 2016. At: <http://www.sbs.com.au/news/dateline/article/2015/10/09/german-neo-nazis-praise-australias-refugee-policy>

¹⁶ Khalid Koser, 'Australia and the 1951 Refugee Convention', *The Lowy Institute for International Policy*, 30 April 2015. At: <http://www.loyyinstitute.org/publications/australia-and-1951-refugee-convention>

¹⁷ Alan Behm, 'It's time for a transformational foreign policy,' *The Strategist (ASPI)*, 8 September 2016, at: <https://www.aspistrategist.org.au/time-transformational-foreign-policy/>

¹⁸ Rebecca Hamilton, Feb 23, 2017, *Foreign Policy*, *Australia's Refugee Policy Is A Crime Against Humanity: Bringing suit against Canberra over its barbaric detention policy would show the ICC isn't just for African strongmen anymore.* : <http://foreignpolicy.com/2017/02/23/australias-refugee-policy-may-be-officially-a-crime-against-humanity/>

2.3.2 Undermines key institutions upon which we rely

- Successive changes to the Australian law have undermined the meaning and value of legal instruments such as the Refugee Convention. Our international standing and security are related to maintaining a global rules based order, which also underpins our 'economic diplomacy' and future prosperity.¹⁹
- We may justify the decision on domestic political grounds, but ultimately our blatant disregard for international laws and norms, can set precedents that might be followed by other regimes, in ways that are antithetical to our national interests over the longer term. Rather than be a "norm entrepreneur" in a positive sense, in this policy area we are contributing to a global lowering of the standards of behaviour.

2.3.3 Destabilises or distorts regional relationships

- The boat turn back policy has caused consternation in Indonesia and been viewed as "inherently incompatible with good bilateral relations because it is unilateral."²⁰ It has caused ongoing tensions, including around alleged incursions into Indonesian waters, and payments to crews to turn boats around.²¹
- The Malaysian relationship too was impacted by domestic debate over the 2012 refugee deal. Arguably too, it damaged the Australian public's understanding and perceptions of Malaysia.²²
- Nauruan rule of law and governance has been in constant crises, with Judges expelled, New Zealand suspending aid, Opposition members of parliament arrested or banished, facebook banned, significant corruption allegations including involving Australian companies, and concerns for the electoral process.²³
- Australia has now given at least \$55 million to Cambodia, when no refugees want to permanently settle there. Australia remains silent and continues to put significant "aid" into the country in spite of growing authoritarianism, corruption and despotic rule.²⁴

2.3.4 Helped create fertile ground for the rise of domestic xenophobia

- The tenor of debate and the public discourse related to people seeking asylum, has been at different times, shrill, misleading or sensationalist, and scapegoated people arriving by boat. For instance in the:
 - Deliberate use of the misleading term "illegals" and replacement of the term "client" with "detainee" and "transferee."²⁵
 - Aspersions being cast that people arriving by boat or seeking asylum may be "terrorists."
 - Suggestions made that people are "queue jumpers" or "came by the back door."
 - Misleading claims about people seeking asylum "taking jobs" and/or getting undeserved "handouts" and clogging our infrastructure and public services.²⁶
 - Introduction of a spurious *Code of Conduct* to "protect" the community.²⁷
 - Feeding of a fear narrative in Australia that we were being "swamped" and our "borders" are under constant and significant threat.
- It has done little to explain to the Australian people the nature of the international conflicts and displacement we face, and instead fostered cultural, ethnic, and religious misunderstanding. This has created fertile ground in Australia for the rise of xenophobia, now being expressed in extremist, white-power, nationalist, and anti-Islamic groups gaining traction in our community.

¹⁹ See a further discussion of the strategic costs in: UNICEF Australia & Save the Children Australia, At What Cost? – The Human, Economic and Strategic Cost of Australia's Asylum Seeker Policies and the Alternatives, September (2016). At: www.unicef.org.au/blog/news-and-insights/september-2016/the-true-cost-of-australias-refugee-policies

²⁰ Former Indonesian Foreign Minister M Natalegawa, quoted in - Michelle Grattan, 'Turnbacks remain an irritant in Australia-Indonesia relations: former foreign minister Natalegawa,' *The Conversation*, June 29, 2015. At: <https://theconversation.com/turnbacks-remain-an-irritant-in-australia-indonesia-relations-former-foreign-minister-natalegawa-44043>

²¹ Tom Allard and Sarah Whyte, 'Refugee Policies give Australia's reputation a beating' *The Sydney Morning Herald*, 20 June 2015. At: <http://www.smh.com.au/national/refugee-policies-give-australias-global-reputation-a-beating-20150619-ghs7xt.html>

²² Michelle Grattan, *The Sydney Morning Herald*, Malaysia Angry over Australia criticism, 13 August 2012. At: <http://www.smh.com.au/federal-politics/political-news/malaysia-angry-over-australian-criticism-20120813-24427.html>

²³ Reuters, 'Exclusive: Australia directed officials how to address Nauru rights concerns, documents show,' 11 February 2016. At: <http://www.reuters.com/article/us-australia-asylum-nauru-idUSKCN0VK0JW>

²⁴ Lindsay Murdoch, 'Australia silent as Cambodia's Hun Sen deals final blow to democracy,' *The Sydney Morning Herald*, Feb 22, 2017. At: <http://www.smh.com.au/world/australia-silent-as-cambodias-hun-sen-deals-final-blow-to-democracy-20170221-ghori.html>

²⁵ Tom Clark, 'Calling a boat person a spade: Australia's asylum seeker rhetoric,' *The Conversation*, 22 October 2013. At: <http://theconversation.com/calling-a-boat-person-a-spade-australias-asylum-seeker-rhetoric-19367>

²⁶ James Robertson, Liberal candidate links asylum seekers to traffic jams and hospital queues, *The Sydney Morning Herald*, 3 September 2013. At: <http://www.smh.com.au/federal-politics/federal-election-2013/liberal-candidate-links-asylum-seekers-to-traffic-jams-and-hospital-queues-20130902-2t1kw.html>

²⁷ Levels of criminal activity in refugee and asylum seeking populations are actually below the Australian average. This Code functioned as largely a rhetorical device, both scaring the asylum population and criminalising them further in the eyes of the wider public. See Anthea Vogl and Elyswe Methven, University of Technology Sydney, 'Asylum seeker code is a rhetorical tool – with severe consequences' in *The Conversation*, 10 Dec 2014. At: <http://theconversation.com/asylum-seeker-code-is-a-rhetorical-tool-with-severe-consequences-35083>

- We acknowledge these domestic debates are outside the realms of the White Paper to deal with directly, our strategic direction in regards to refugees and people seeking asylum is not. Such developments are tearing at the fabric of our own social cohesion and reverberate through our foreign affairs. Again too, it is not just our internal coherence, but support for the liberal project upon which our economic interdependencies rely (such as arguing for more open trade against rising nationalist/ protectionist sentiment) that are threatened by such developments.

2.3.5 Resulted in deaths and ongoing abuse for which Australia is culpable

- As the Moss Review, Manus Island High Court decision in PNG, leaked Nauru files, coronial enquiries, whistleblowers and multiple NGO reports have revealed, successive Australian Governments bear responsibility and culpability for creating the conditions, and the gross neglect of our duty of care, that has resulted in a devastating impacts on the men women and children held in offshore detention camps. This includes avoidable deaths, a brutal murder and bashings, rapes, child abuse, medical negligence, and such devastating mental despair that people have overdosed or even self-immolated.²⁸
- Australia may rely on tenuous legal constructions and fictions, or commercial in confidence contracts to hide or absolve us of direct legal responsibility. But regardless, these actions have engendered clear human rights abuses, breached international law, and entail a moral and ethical responsibility we cannot shirk.
- The Churches have repeatedly called on successive Australian Government to understand the historicity and legacy of such grave injustice. Just as our Governments have apologised for the Stolen Generations and actions towards Australia's first peoples, so too these detention centers are a blight on the soul of our nation, and will remain so until proper recognition is made of their immorality, they are closed, and restitution is made.

2.3.6 Undermines our own domestic good governance

- The National Audit Office has revealed over 1.1 billion dollars spent on offshore detention without proper authorisation or oversight. Another 1.1 billion was spent with no record of who authorised the payments.²⁹
- Our Parliament has given significant and unprecedented powers to the Immigration Minister, allowing them to "play God" with peoples lives, without proper justification, or putting sufficient checks and balances in place.
- There has been an increasing and unjustifiable lack of transparency and secrecy. The operations, impacts on human beings and the broader ongoing costs of these policies have been largely hidden from the public.
- Even as Australia has been conducting a Royal Commission into Institutional Responses into Child Sexual Abuse, legislation sought to prevent doctors and other workers, from publicly exposing child abuse in Nauru.³⁰
- The cost of offshore processing is estimated to be around \$400,000 per person a year. This is an extraordinary amount given the entire UN budget for Asia and the Pacific in 2016 was \$545 million.³¹ It comes as our aid budget has also been drastically slashed, reducing our ability to work upstream of people flows.

A report by Save the Children and UNICEF Australia, *At What Cost? The Human, Economic and Strategic Cost of Australia's Asylum Seeker Policies and the Alternatives*³² contains further details than those outlined above. The cumulative impacts and costs of these policies are significant. A more realistic and encompassing assessment, than that of "boats have been stopped," reveal a policy and human disaster.

In sum, a shallow, domestic agenda is **coming at the cost of focusing on longer term regional stability and international interests**, undermining the critical moral and cultural authority (or soft power) we rely on as a considerable (or middle) power country; and is resulting in the abuse and neglect of men, women and children, and other actions **repugnant to our own espoused values and liberal-democratic tradition.**

28 UNICEF Australia & Save the Children Australia, *At What Cost? – The Human, Economic and Strategic Cost of Australia's Asylum Seeker Policies and the Alternatives*, September (2016). At: www.unicef.org.au/blog/news-and-insights/september-2016/the-true-cost-of-australias-refugee-policies

29 <https://www.anao.gov.au/work/performance-audit/offshore-processing-centres-nauru-and-papua-new-guinea-procurement>

²⁸ Australian National Audit Office, *Offshore Processing Centres in Nauru and Papua New Guinea: Procurement of Garrison Support and Welfare Services*, 13 September, 2016. At: <https://www.anao.gov.au/work/performance-audit/offshore-processing-centres-nauru-and-papua-new-guinea-procurement>. An appropriate delegate provided an authorisation for payments totalling \$80 million; \$1.1 billion was approved by DIBP officers who did not have the required authorisation; and for the remaining \$1.1 billion there was no departmental record of who authorised the payments," <http://www.sbs.com.au/yourlanguage/korean/en/article/2017/01/18/audit-finds-1b-spent-offshore-detention-without-authorisation>

³⁰ This has since been partially overturned in part in response to public outcry. Greg Barnes and George Newhouse, Border Force Act: detention secrecy just got worse, ABC online, 28 May 2015. At: <http://www.abc.net.au/news/2015-05-28/barns-newhouse-detention-centre-secrecy-just-got-even-worse/6501086>

³¹ UNHCR, Global Focus – Financials, http://reporting.unhcr.org/financials#_ga=1.41192226.1040341421.1488192718

³² UNICEF Australia & Save the Children Australia, *At What Cost? – The Human, Economic and Strategic Cost of Australia's Asylum Seeker Policies and the Alternatives*, September (2016). At: www.unicef.org.au/blog/news-and-insights/september-2016/the-true-cost-of-australias-refugee-policies

2.4 The current policy offers no resolution or a sustainable response

Given the consequences that our current offshore detention and deterrence regime spawns, perhaps the most damning aspect is that it ultimately provides no real long-term solution. As noted by former UN High Commissioner for Refugees and soon to be UN Secretary General, António Guterres at his 2014 Dialogue on Protection Challenges:

[F]ocusing only on border control and deterrence will not solve the problem... [A]n exclusive focus on security and targeting criminal activity only risks making these journeys even more dangerous, and those travelling more vulnerable. One cannot stop a person who is fleeing for life by deterrence, without escalating the dangers even more. Any effective response must also address the root causes of this phenomenon.³³

Papua New Guinea has now rejected the presence of the Manus Island detention centre as unconstitutional and is demanding that the centre be closed and people be resettled elsewhere.³⁴ The Nauru Government has only ever offered 5, or in some instances 10 year visas, as well as requiring significant financial incentives and other support to sustain this arrangement.³⁵

The “ring of steel” Border Force deployment to our north requires an extraordinarily high and constant deployment of resources, particularly given the lack of actual security threat it poses.³⁶ It is arguably not sustainable indefinitely.

Moreover the ultimate justification for the offshore and deterrence regime is that there is “no alternative”, that this policy must be maintained in order to avoid deaths at sea. Whilst it may be accepted that the Australian population has a *preference* for an “orderly” system of migration, and indeed there have been consistent levels of populist support for the *rhetoric* of “strong borders,” any claim that this is policy approach is the **only way** to achieve an orderly migration program and prevent people from dying at sea, is either misleading, ignorant or erroneous.

Indeed this is perhaps the greatest fallacy and tragedy of the entire regime. **There are many combinations of alternatives and opportunities for deploying the diplomatic, financial and material resources we currently expend, in ways that would be more effective and humane, pragmatic and ethical.**

We explore one significant possibility for change in this respect below, in the section on **Protection Sensitive Migration** below.

33 António Guterres, United Nations High Commissioner for Refugees, ‘Opening Remarks’ (Speech delivered at the High Commissioner’s Dialogue on Protection Challenges: Protection at Sea, Geneva, 5 October 2015). At <http://www.unhcr.org/54882c149.html> (viewed 12 August 2016). - Quoted in Australian Human Rights Commission. *Pathways to Protection: A human rights-based response to the flight of asylum seekers by sea*, (2016) 15. At: <https://www.humanrights.gov.au/our-work/asylum-seekers-and-refugees/publications/pathways-protection-human-rights-based-response>

34 Stephanie Anderson, ‘Manus Island detention centre to close, Peter Dutton and PNG Prime Minister confirm,’ ABC online, 18 Aug 2016. At: <http://www.abc.net.au/news/2016-08-17/manus-island-to-close-png-prime-minister-confirms/7759810>

35 Madeline Gleeson, ‘Offshore processing: refugee status determination for asylum seekers in Nauru’ Kaldor Centre for International Refugee Law, 30 January 2017. At <http://www.kaldorcentre.unsw.edu.au/publication/offshore-processing-refugee-status-determination-asylum-seekers-nauru>

36 See the Refugee Council of Australia: <http://www.refugeecouncil.org.au/getfacts/mythbusters/asylum-myths/security-threat/> The links between terrorist attacks and boat arrivals have proved nebulous: <http://theconversation.com/factcheck-qanda-have-any-refugees-who-came-to-australia-gone-on-to-be-terrorists-51192> with threat internally still very low: <http://theconversation.com/australians-have-little-to-fear-from-terrorism-at-home-heres-why-66823> The greatest terrorism attack on Australians was the Bali bombing and as Sheldrick noted last year, “Perhaps one of the best examples of foreign aid protecting Australian interests is a project initiated under the Howard Government. Over the last decade or so, Australia has deployed \$300 million per year to Indonesia to build schools. Through addressing some of the underlying conditions that promote the emergence of terrorism, such investments have produced immeasurable benefits in remote communities that are often the breeding grounds for extremism” at: http://www.internationalaffairs.org.au/australian_outlook/cutting-aid-cutting-security/

3. A committed and principled ethical framework

3.1 Theoretical limits and the need to embrace ethics

3.1.1 Limits of “realism” and a state-centric approach

Our dominant approaches still largely start from an assumption of an anarchic state of nature in the world, in which we are committed to rivalry, and peace can only ever be achieved when endemic violence is contained through threat. It pessimistically assumes fatalistic notions of violence and competition; but also optimistically asserts that people in authority are rational actors, making decisions in some kind of enlightened self-interest.³⁷

This can no longer be taken as our starting point, or only starting point, for thinking about international affairs. Firstly it creates too simplistic a lens, which won't serve us well in this period of rapid change, layered transnational relationships and interdependencies, and increasing social complexity. Secondly, it contains unexamined assumptions that it is somehow theoretically neutral, or perhaps ethics-free thinking. Together these may in fact create serious blind spots, lead to unreflective responses, and result in significant policy failure.

We witness for example, the twisted logic that now predominates, where bizarrely, deaths and child abuse in Australian detention centers are seemingly accepted as a “necessary price” for stopping people drowning at sea. This is portrayed as a “hard headed” or *realpolitik* response, above ethical critique. It is not. It is the result of Australian assumptions (that we must protect “borders” at any cost / there is no other way), assertions (“it's the national interest”) and decisions (to open offshore detention), which are contestable or have proven erroneous, and for which policy makers remain culpable.

3.1.2 The need for an explicitly ethical approach

International security studies, which is central to the security - diplomatic - immigration - nexus with which we are most concerned, has never had a systematic examination of, nor developed a clear and distinct ethics of its own.³⁸

Specific manifestations of moral reasoning in these fields, such as “just war” theory, which is rooted in the writings of Saint Thomas Aquinas amongst others, are specifically focused on responding to, or employing a “judicious” use of violence and warfare. As they have been theorised and employed, they are no substitute for a more comprehensive examination of the ethics of how we initially even conceive, interpret, construct and follow through on our affairs in and with the world.

Consequently, Burke, McDonald and Lee-Koo have proposed that in relation to global security, we must step back from existing assumptions about “human nature” that produce a narrow moral reasoning premised on endemic violence, to examine a broader *global ethics* that ‘in contrast, opens up a more positive trajectory: to think of more systemic visions of peace justice and human flourishing that might eliminate the need to resort to violence.’³⁹

3.2 Some considerations for an ethical grounding

3.2.1 Ethical foundations - a *global security ethic*?

A full explication or prescription for an ethical grounding in the White Paper is beyond the scope of this submission. However, one starting point for beginning to think more systematically about the contents of an ethics in this context could be recent attempts by Burke and others, to theorise a *global security ethic*. Their approach is premised on a view that the only morally defensible ethics for a ‘set of principles’, is one that does not discriminate between people, or groups, regardless of location, religion, culture, circumstance etc.⁴⁰ They propose three overarching principles, summarised as:⁴¹

³⁷ *The Truce of God*, 113.

³⁸ Anthony Burke, Kat Lee-Koo and Matt McDonald, *Ethics and Global Security*, Routledge: Oxon, (2014) 10.

³⁹ Anthony Burke, Kat Lee-Koo and Matt McDonald, *Ethics and Global Security*, Routledge: Oxon, (2014) 6.

⁴⁰ *Ethics and Global Security*, 10.

⁴¹ These are outlined in full, and contrasted with current Australian actions in relation to refugee policy, below *Attachment 2*.

1. All States and security actors have responsibility to take serious efforts to secure all peoples, and the ecological systems on which life depends, then none can be secure.
2. We owe a responsibility to the future generations and ecosystems.
3. We must act as if any local actions might become global, or have consequences across geography and through time.⁴²

Notably, this contains a broader notion of who security actors might be. Rosenthal has also observed the need to recognise NGO's, business and a wide range of other agents, not just as partners of Government in pursuing our international interests, but as security actors in their own right.⁴³ They too are moral agents and the White Paper should reflect this.

Such principles are deeply resonant within our Judeo-Christian tradition. It speaks to possibilities in which:

'...where there is a sense of the human vocation or destiny as more than a merely national or sectional affair, as involving issues about the compatibility and interdependence of human goods across nations and cultures, 'global moral communities' begin to take shape.'^{44 45}

3.2.2 National Interest

Related to the above, from a Christian perspective the 'world is such that we cannot ignore questions of defence and security - only a moral imbecile could fail to see that.' However neither can we accept any dogmatic position that suggests the survival of our point of view / national security / purity of doctrine is so absolute a priority that no human price in the lives or welfare of others is too high to pay for it.⁴⁶ We reject a reductionist premise of "self interest" at any costs, and that any means justifies the ends. We would further challenge any view which 'claims that the welfare of some may rightly be secured by the dispensability of others.'⁴⁷

Our previous notions of national interest have been too narrowly construed,⁴⁸ and used in the past to close down debate and critical perspectives. For instance, the increasingly oppressive "Border Force" mentality, proffered as in the "national interest" is on the verge of becoming such an absolutist dogma. It now suppresses useful and democratic national debate under layers of secrecy; has led us to act in ways repugnant to our national values; and exhibits an increasingly blinkered rigidity that does not bode well for adapting to challenges presented by our complex world. This is not to dismiss our national interest, but rather to suggest we need a more sophisticated approach. Global ethical commitments can be commensurate, or at least held within these.

3.2.3 We need a deeper reflection and a real commitment

Inevitably our judgments about foreign affairs or trade policy involve value commitments, so must integrate a deeper ethical reflection with other social scientific research and policy considerations "to determine what institutions and policies are more likely to be just."⁴⁹ Policy makers cannot formulate such positions in isolation.⁵⁰ The White Paper process should seek to foster a real dialogue between those working in the field, and a broader range of disciplines, ethicists, thinkers, and others commentators, to assist in establishing a clear ethical framework for our international affairs going forward.

Alternatively, the danger is that we produce a White Paper that represents a laundry lists of Australian values, or notes our commitments to universal human rights and a global rules based order; but retains an opaque idea of national interest that remains a relativistic trump card, that can be tuned to the shorter-term whims or pressures of the Government of the day.

⁴² *Ethics and Global Security* 15-20.

⁴³ Coming from a different perspective, Rosenthal has attempted to describe a similar vision and impact if ethics were more systematically applied, in his view, we could recognise progress in normative shifts towards a global ethic when: 'Individuals in even the most remote locations will begin see themselves as part of a global economy, a global climate, and a global information system. Values and priorities will evolve to take into account global-level concerns. Zero-sum thinking will begin to give way in some circumstances. Political and social arrangements will evolve. More and more, systems and structures will be designed to align with global expectations while preserving local autonomy and flavor.' - Joel H. Rosenthal, 'Ethics and International Affairs: A Primer, Carnegie Council for Ethics in International Affairs, website: <http://www.carnegiecouncil.org/education/001/ethics/eiaprimer.html>

⁴⁴ Rowan Williams, *The Truce of God*, William B. Eerdmans: Grand Rapids, (2005) 119.

⁴⁵ Joel H. Rosenthal, 'Ethics and International Affairs: A Primer, Carnegie Council for Ethics in International Affairs, website: <http://www.carnegiecouncil.org/education/001/ethics/eiaprimer.html>

⁴⁶ truce 32

⁴⁷ truce 38

⁴⁸ See also 'Australia's current public-policy space is too small to grapple with the huge geopolitical and environmental shifts underway. Australia's conception of its national interest is too narrow and too exclusively focused on the Asia-Pacific region – and, even there, too focused on a short-term agenda. <http://theconversation.com/australian-foreign-policy-needs-a-broader-conception-of-our-national-interest-62092>

⁴⁹ Duane, K. Friesen. *Christian Peacemaking and International Conflict a realist pacifist perspective*, Herald Press: Scottsdale, (1986) 124.

⁵⁰ *Christian Peacemaking and International Conflict a realist pacifist perspective*, 124.

In short, that we pay lip service to our professed values, but act in ways counter to them; with no mechanisms or structures for continuous ethical reflection, or directed towards more deeply grounded and longer term, ethical or justice-oriented action in the world.

Ultimately we suggest the need to embed within the White Paper, an approach that goes beyond the previous simplicities, unexamined assumptions and paradigms of the 20th Century, and attempts to understand the world in its current complexity, **to respond to it in an adaptive and sophisticated way, but one grounded by principled and ethical commitments and practices.**

3.3 Dealing with increasing complexity

A key adjunct to our discussion in this submission thus far, is that an understanding of the increasing **complexity** of our times. In short, as the Santa Fe Institute has stated in relation to thinking about foreign relations:

'The crisis of globalization and the 'new normal' world presents a fundamental challenge for anyone operating in the public spheres. Whether in diplomacy, defense or development, too many practitioners across the three "D's" have persisted in approaching the economic, natural and social systems as so many pieces of machinery, analogous to a series of windup clocks....

Such conventional and reductionist ways of analyzing and dealing with social and economic problems help break down difficult undertakings, but they don't help deal with the complexity, uncertainty or ambiguity that characterizes the emergent behaviour these complex adaptive problems display.⁵¹

Our discussion here is referring to an understanding of the complexity sciences, that is, complex systems (as a unit of analyses) and complexity theory (as explanation for how such systems behave).⁵² It is an emerging body of knowledge and insights garnered from across disciplines. It fundamentally differs to the reductionist and positivist approaches that have characterised "realist" and "liberal" paradigms that have dominated our thinking in foreign affairs for decades.⁵³

Complex problems do not have 'stopping points',⁵⁴ you cannot solve them perhaps only tame them. In these respects interventions are perhaps better understood as '*situation improvement* rather than *problem solution*.'⁵⁵ Complexity demands different approaches and methodologies, for instance greater collaboration (rather than command and control) and more probing and adaptive approaches. It is more commensurate to working off heuristics, rather than explicit rules.⁵⁶

An Overseas Development Institute (ODI) working paper notes that despite the work-in-progress nature of this field, it offers 'new possibilities for understanding development and humanitarian problems.'⁵⁷ At its most effective it can generate 'ideas and insights that help to see complex problems in a more realistic and holistic manner, thereby supporting more useful intuitions and actions.'⁵⁸ However one of the great insights and challenges in its application, is its fundamental implication that 'the best course of action will be highly context dependent.'⁵⁹ The UNDP has also engaged in projects using complexity methodologies and is exploring ways to draw on this knowledge for 21st Century challenges.⁶⁰

Some proponents have suggested that advances in complexity science, combined with knowledge from the cognitive sciences are poised to help current and future leaders 'make sense of advanced technology, globalization, intricate

⁵¹ William Frej & Ben Ramalingam, *Foreign Policy and Complex Adaptive Systems: Exploring New Paradigms for Analysis and Action*, Santa Fe Institute, Working Paper: 2011-06-022. 3. At: <http://samoa.santafe.edu/media/workingpapers/11-06-022.pdf>

⁵² Ora-om Poocharoen and Jeffrey Straussman, 'Interpreting the Case of Refugees: Is it a Wicked or a Complex Problem?' *International Conference on Public Policy (ICPP)*, Milan, Italy, 1-4 July (2015) 3. At: <http://www.icppublicpolicy.org/conference/file/reponse/1435247778.pdf>

⁵³ In business and military realms there is a growing use of the related acronym and ideas regarding VUCA - Volatility, Uncertainty, Complexity and Ambiguity, see for example <http://www.oxfordleadership.com/leadership-challenges-v-u-c-world/>

⁵⁴ Jeff Conklin, *Dialogue Mapping: Building Shared Understanding of Wicked Problems*, Wiley: October (2005) 7-8. At: <http://www.cognexus.org>

⁵⁵ Peter Daniels, 'A Systems Perspective On U.S. Foreign Policy In The Middle East: A Propositional Analysis,' *E:CO*, Issue Vol. 14 No. 4. (2012) pp.48. At: https://emergentpublications.com/ECO/ECO_papers/Issue_14_4_4_PR.pdf

⁵⁶ See the excellent discussion on the Cynefin Framework for decision-making in complexity. This article notes that the U.S. Defense Advanced Research Projects Agency has applied the framework to counterterrorism - David J. Snowden and Mary E. Boone, 'A Leader's Framework for Decision Making,' *Harvard Business Review*, November 2007. At: <https://hbr.org/2007/11/a-leaders-framework-for-decision-making>

⁵⁷ Ben Ramalingam and Harry Jones, 'Exploring the science of complexity: Ideas and implications for development and humanitarian efforts,' *Overseas Development Institute*, Working Paper, 285, February: 2008. 62. At: <https://www.odi.org/publications/583-science-complexity>

⁵⁸ 'Exploring the science of complexity: Ideas and implications for development and humanitarian efforts,' 61.

⁵⁹ 'Exploring the science of complexity: Ideas and implications for development and humanitarian efforts,' 65.

⁶⁰ See for example their projects with Cognitive Edge (though noting the links to UNDP are no longer active) at: <http://cognitive-edge.com/blog/the-story-of-sensemaker-in-undp-eastern-europe-and-cis-by-tony-quinlan/>. See also the UNDP paper - Max Everest-Phillips, *Stewardship of the Future Using Strategic Foresight in 21st Century Governance*, UNDP Global Centre for Public Service Excellence (Working Paper) 2015, 8. At: http://www.asia-pacific.undp.org/content/dam/rbap/docs/meetTheSDGs/GCPSE_Stewardship-Foresight2015.pdf

markets, cultural change, and much more. In short, the science of complexity can help all of us address the challenges and opportunities we face in a new epoch of human history.⁶¹

3.4 Towards a more ethical and adaptive framework

There is a relevant intersection between our overarching point about the need for an ethical grounding to underpin the 'philosophical framework' of White Paper, and the increasing complexity and ambiguity of our times. As Conklin states, given that complex problems don't have a single solution, and there are multiple possibilities:

'Solutions are assessed in a social context in which "many parties are equally equipped, interested, and/or entitled to judge [them]," and these judgements are likely to vary widely and *depend on the stakeholder's independent values and goals*.'⁶² [Emphasis added]

We suggest that being clear about what we stand for, and having an embedded practice that reflects this, is more important than ever during times of ambiguity. A strong and principled ethical framework can operate in part as our heuristics for navigating our era of increasing complexity; they can be our lighthouses and flashing buoys, whilst sailing through the darkest of nights. They don't tell us exactly where we must sail or tack, but they set out the broad parameters through which to tack, to keep us heading in the right direction and to keep us safe from the many moral hazards in an ambiguous world. As Rosenthal notes:

Done well, ethics and international affairs in the 21st century would inspire, not legislate; it would offer insight not rules and regulations. Its goal would not be to make everyone the same or impose consensus. It would be, rather, to preserve liberty and diversity by recognizing a new reality and norms that must come along with it.⁶³

It may also go some way to providing what Behm has termed a "transformational" foreign policy:

'A transactional foreign policy deals with things as they occur. It has no plan. It's pragmatic rather than purposive, reactive rather than visionary. A transformational foreign policy, on the other hand, is targeted, preferring principle to pragmatism, direction to simple responsiveness, enduring benefits to activity for its own sake.'⁶⁴

The ultimate danger here is that if we remain unmoored from ethical considerations, amidst the rise of populist extremist views, perhaps coupled with other emergent threats and a strategically murky environment, may eventually exert such pressure on our polity that '...democratic governments can end up carrying through policies that in the cold light of day a population would not and could not morally endorse.'⁶⁵

3.5 Interconnections with economic diplomacy and prosperity

There are deep interconnections between our economic diplomacy and other facets of our foreign relations, so the need for ethical approaches extends into these aspects of our foreign policy. A significant recent McKinsey Global Institute report, *People on the move: Global migration's impact and opportunity* concluded:

'Migration is a key feature of a more interconnected world. Despite significant concerns about its economic and social implications, the movement of people across the world's borders boosts global productivity. The countries that prioritize integration stand to make the most of this potential—improving outcomes for their own economies and societies as well as for immigrants themselves.'⁶⁶

Similarly, McKinsey further noted in their related report *Europe's New Refugees*:

⁶¹ David J. Snowden and Mary E. Boone, 'A Leader's Framework for Decision Making,' *Harvard Business Review*, November 2007. At: <https://hbr.org/2007/11/a-leaders-framework-for-decision-making>

⁶² Jeff Conklin, *Dialogue Mapping: Building Shared Understanding of Wicked Problems*, Wiley: October (2005) 7. At: <http://www.cognexus.org>

⁶³ Joel H. Rosenthal, 'Ethics and International Affairs: A Primer, Carnegie Council for Ethics in International Affairs, website:

<http://www.carnegiecouncil.org/education/001/ethics/eiaprimer.html>

⁶⁴ Allan Behm, 'It's time for a transformational foreign policy,' *The Strategist*, 8 Sep 2016: At: www.aspistrategist.org.au/time-transformational-foreign-policy/

⁶⁵ *Truce of God*, 17-18.

⁶⁶ McKinsey Global Institute (MGI), *People on the move: Global migration's impact and opportunity*, November (2016). At: www.mckinsey.com/global-themes/employment-and-growth/global-migrations-impact-and-opportunity

'...that refugees are the inevitable product of a world in conflict... The continent has a great deal at stake in ensuring that they are integrated into the labour market and into society more broadly. Failing to do so carries significant risks of creating an isolated and dependent population over the long term. For the countries that get this right, there is real economic upside potential.⁶⁷

As noted above, we suggest the current tenor of debates that have flared around diversity, protectionism, and immigration⁶⁸ are interrelated and have been fuelled in corrosive directions by the scapegoating of people seeking asylum and broader narrative this has engendered. Our challenge now is to arrest this narrative, in part by changing our behaviours, and to not allow it to extend further (eg against other groups, such as Muslims).

Australia draws great strength from its diversity, our prosperity and economic development relies on a robust migration intake. We need to be able to capitalise on the further opportunities it presents. In the next section below, we further expound on how we might align migration and protection needs and turn these challenges into such economic benefits.

⁶⁷ McKinsey Global Institute (MGI). *Europe's new refugees: A road map for better integration outcomes*, 1 December (2016) 1. At: <http://www.mckinsey.com/global-themes/employment-and-growth/a-road-map-for-integrating-europes-refugees>

⁶⁸ For instance the former Prime Minister Tony Abbott suggesting we should cut immigration in order to ease housing affordability - <http://www.afr.com/news/tony-abbott-plays-trump-card-on-immigration-20170223-gujfpr>

4. A better way for people seeking safety

Responding to this global challenge ‘experts around the world have begun advancing ideas for new migration pathways for those in humanitarian need.’⁶⁹

4.1 Protection sensitive migration

One major contribution in this area could be protection sensitive migration. In its report of the October 2016 the Australian Human Rights Commission (AHRC) outlined the possibilities for protection sensitive migration in Australia. As the AHRC explains it:

‘Protection-sensitive migration aims to facilitate refugees’ access to non-humanitarian migration pathways as a means of enhancing protection or providing durable solutions. It involves addressing barriers which may inadvertently exclude people fleeing persecution from migration opportunities;... implementing proactive strategies to extend a wider range of migration options to forcibly displaced people; and providing additional safeguards (such as protection against *refoulement*) for refugees migrating through non-humanitarian pathways.

Some commentators have suggested that protection-sensitive migration (also described as mobility or ‘transnationalism’) could be considered the ‘fourth durable solution’ alongside the three traditional solutions of voluntary repatriation, local integration and resettlement.⁷⁰

By reorienting the existing migration program, Australia could significantly expand its discretion and capacity to respond to global protection needs and emergent challenges. Compared to the offshore humanitarian intake of just 13,750 people per year, the current Australian migration program consists of roughly 190,000 permanent migrants⁷¹ and up to 800,000 others on various visas, overall each year.⁷²

Through mechanisms such as the “immigration risk” assessment, the current system essentially red flags people in regions where conflict is immanent and there are protection implications, making it more difficult for them to access an Australian visa. Under protection sensitive migration, such an assumption would be inverted. Indications of protection needs could instead help identify and expedite a range of visa applications. Such pathways could include a wide variety of visas such as:

- Labour related visas
- Education visas and scholarship opportunities
- Other skilled and family migration or reunion visas

Ideally a range of barriers that exist would also be addressed within a protection sensitive approach, such as high costs, documentation requirements, processing times and the like. Further, it would also be possible for people to make more than one application simultaneously, such as a concurrent humanitarian and education visa.

These are not radically new ideas, as broadening the non-humanitarian pathways have been increasingly discussed through multiple fora in recent years, including:

- A broader consideration of Australian visa options part of the original recommendations from the Houston Expert Panel.⁷³

⁶⁹ Travers McLeod, et al, ‘The Andaman Sea refugee crisis a year on: what happened and how did the region respond?’ *The Conversation*, May 26, 2016. At: <http://theconversation.com/the-andaman-sea-refugee-crisis-a-year-on-what-happened-and-how-did-the-region-respond-59686>

⁷⁰ Australian Human Rights Commission. *Pathways to Protection: A human rights-based response to the flight of asylum seekers by sea*, (2016) 34. At: <https://www.humanrights.gov.au/our-work/asylum-seekers-and-refugees/publications/pathways-protection-human-rights-based-response>

⁷¹ Department of Immigration and Border Protection, found at: <https://www.border.gov.au/about/reports-publications/research-statistics/statistics/live-in-australia/migration-programme>

⁷² This includes all temporary forms of visa excluding New Zealand, Bridging Visas etc - Temporary entrants and New Zealand citizens in Australia As at 30 September 2016. See: <https://www.border.gov.au/ReportsandPublications/Documents/statistics/br0169-30-sept-2016.pdf>

⁷³ In Australia, the approach was also supported by the Houston Panel, which called for “better coordination of the Humanitarian Program with other elements of Australia’s migration program, [highlighting that] some applicants for protection may have skills and qualifications that make them eligible for entry to Australia through channels other than the Humanitarian Program.” - See Australian Government, “Report of the Expert Panel on Asylum Seekers” (Canberra, August 2012), 114-115.

- As a discussion piece and recommendation for a way forward in a UNHCR background note on Syria.⁷⁴
- As part of the Bali Process, safe, legal and affordable migration pathways, alternatives to dangerous journeys, have been discussed. Ministers have encouraged consideration of options, such a labour migration for people seeking safety.⁷⁵

Critically, it would also be important that Australia maintains its internationally respected refugee resettlement and humanitarian programs. It also would not replace our international obligations to assist those arriving on our shores seeking asylum. Protection sensitive migration is not intended as a replacement system, but rather a complementary suite of tools that would play an important and constructive role in our foreign affairs going forward.⁷⁶

4.2 Benefits of a protection sensitive approach

A shift to a migration sensitive approach offers a concrete example of how a more ethically grounded and adaptive, foreign policy approach can give rise substantial and broad benefits:

- Given Australia's commitment to a robust migration intake, protection sensitive migration would enable an alignment of humanitarian and ethical concerns, as well as economic and other nation building imperatives.
- It would allow for more diplomatic nuance and discretion in the application of visas. For instance many people cannot openly apply for protection within their home country (if there is a means to apply at all), particularly if it is their own Government that is the source of the human rights abuses.
- It would enable earlier detection and responsiveness to emergent protection needs. For instance, rather than red-flagging and denying a visa, preventing peoples departure, earlier responsiveness to the Syrian conflict, may have allowed people to leave as intact family units, and to secure and travel with financial or other assets, allowing them to more easily establish themselves in their place of resettlement.
- Similarly with traditional approaches to processing protection claims, many people experience extreme levels of interruption to life's normal patterns, violence, trauma, and extended periods without access to work, education, and proper health care before they can be assessed and resettled. A more responsive approach could allow this time, interruption and trauma to be substantially reduced.
- Australians are more diverse and globally interconnected than ever before, and indications are that we will continue to experience a period of global instability. A protection sensitive system can better respond to the demands and needs from our own residents and citizens for family reunion and protection during periods of instability and conflict affecting their own extended families, communities and business networks.
- In conjunction with a range of other measures (such as closing the detention camps, and working more closely with our neighbours to stabilise and respond to the regional issues causing people movement), such an approach could take the heat out the increasingly xenophobic public discourse, by allowing a ratcheting down of the rhetoric and constant obsessive media attention around "illegals" and "boat people."
- In a similar vein it may help build positive internal domestic support for the Australian migration program, as people both experienced the benefits in increased family reunions, and could be proud of, and reassured by, both the orderly and ethical aspects of such an approach. The outpouring of national support for the additional intake of 12,000 Syrian refugees demonstrated that Australia could tap a deeply felt sentiment of welcome and accommodation, given principled leadership.

⁷⁴ United Nations High Commissioner for Refugees, 'Background Note' (Paper presented at High-level meeting on global responsibility sharing through pathways for admission of Syrian refugees, Geneva, 30 March 2016) 1, 4.

⁷⁵ "Co-Chairs Statement," in Sixth Regional Ministerial Conference (The Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime, Bali, Indonesia, 2016), at 10: http://www.baliprocess.net/UserFiles/baliprocess/File/BPMC%20Co-chairs%20Ministerial%20Statement_with%20Bali%20Declaration%20attached%20-%2023%20March%202016_docx.pdf

⁷⁶ See the full AHRC report for a more comprehensive discussion of the mechanisms of protection sensitive migration: Australian Human Rights Commission. *Pathways to Protection: A human rights-based response to the flight of asylum seekers by sea*, (2016) At: <https://www.humanrights.gov.au/our-work/asylum-seekers-and-refugees/publications/pathways-protection-human-rights-based-response>

4.3 Protection sensitive migration and the White Paper framework

Protection sensitive migration would much better fulfil our ethical responsibilities and act in accordance with international human rights law. In light of the ethical principles canvassed above, it is also important to view protection sensitive migration, in terms of its potentially broader impact, including on others globally.

It is an approach much more cognisant of future impacts, as too often our assessment of refugee policies stops with arrival in Australia and shallow public opinion that it is a zero sum game (ie “they take Australian benefits and jobs”, etc).

In reality, many people from refugee backgrounds financially assist family members that remain trapped in conflict zones; they desire to return to their homelands or to support in post-war reconstruction. Finding safety in Australia creates layers of relationships, and possibly affection for our country. Through allowing an earlier escape from persecution, and offering skills, education and employment, people would be better able to contribute, to prepare for a potential return, or orbiting between their homelands and Australia, if they so sought to.

Consequently, instead of attempting to be a net exporter of short-term tactics that produce greater disorder (boat turnarounds and offshore detention camps), that cause great harm and contribute almost nothing to actually resolving the real global challenges we face; Australia could be a net exporter of actions that offer protection, and build peace and security, both through time and space. This would also contribute indirectly to building our own cache of both soft power (through increased cultural ties, affection and relationship) and moral authority (through leading by example).

This is how we might reorient ourselves towards a more “positive trajectory,” and begin to go about being what the Lowy Institute has described as: nationally a standard setter; regionally helping innovate policies and lead reforms; and globally a champion for the protection regime while acting positively as a “norm entrepreneur.”⁷⁷

An overhaul of our visa system that made protection sensitive migration a central component would simultaneously provide us with a more resilient, adaptive approach to migration and humanitarian need, that is more capable of sustaining future disruptions, shocks, and other unforeseen events. As McKinsey has noted of Europe’s refugees:

‘...the recent spike in migration speaks to the fact that we now live in a connected and volatile world, and Europe would be well served to put in place systems that respond more effectively to any future surge in migration.’⁷⁸

Protection sensitive migration is a more sophisticated policy approach, better preparing us to handle the increasing levels of complexity and emergent need with which we are confronted, whilst maintaining a strongly ethical grounding.

⁷⁷ Dr Khalid Koser, ‘Reforming the International Protection Regime: Responsibilities, Roles and Policy Options for Australia,’ Lowy Institute: At: <https://www.lowyinstitute.org/publications/reforming-international-protection-regime-responsibilities-roles-and-policy-options>

⁷⁸ McKinsey Global Institute (MGI). *Europe’s new refugees: A road map for better integration outcomes*, 1 December (2016). 3. At: <http://www.mckinsey.com/global-themes/employment-and-growth/a-road-map-for-integrating-europes-refugees>

Attachment 1

Shortcomings in our scrutiny of war and its impacts

James Brown has noted that the Australian involvement in the Iraq War (2003-2009) lacked proper initial scrutiny or subsequent deep reflection. He argues it opened up an 'international wound' that was at best a 'tragic mistake.'⁷⁹

The release in recent days of a dossier on the Iraq War also raises significant questions. It has been noted that public justification for Australian involvement based on the threat of weapons of mass destruction, and even rebuilding after the invasion, were mere "mandatory rhetoric," with the real intent only being to strengthen the alliance with the US in our "national interest."⁸⁰

Historian Henry Reynolds has also noted that despite prolific sacrifice in lives and treasure in multiple wars:

'There is never an assessment of why Australia has been so often involved in war, whether we have benefitted or whether we would have been better off avoiding unnecessary wars...And while there is much talk of sacrifice - there is little mention of killing, and never any public assessment of the carnage visited on distant countries in our name. There is also a complete absence of any discussion of our moral responsibility for death and damage.'⁸¹

As both Brown and Reynolds point out, we have never had the proper level of scrutiny of Iraq as was conducted in the US and UK, including on the contested legality of this pre-emptive intervention.⁸²

This is despite the fact that Australian military opinion on likely outcomes (of the threat of a power vacuum, and need to stabilising operations in Iraq) was seemingly ignored, and we ultimately assisted our "powerful friend" to deliver themselves a 'self-inflicted wound' in which the only strategic winners were possibly China and Iran.⁸³

Yet it further precipitated great chaos in the region and the dramatic rise of Islamic state. Australian commitments now spread across Afghanistan, Iraq, and Syria. These wars have collectively created massive numbers of refugees, of populations displaced from their homes and homelands.

The exercise of war powers without just cause is of significant concern to the Australian Churches, many of which spoke out against the Iraq intervention in 2003. Moreover a majority of the Australian population did not at the time support going to war, without the backing of the United Nation.

It is a sad reflection, indeed indictment, of our strategic shortcomings, and lack of a systematic ethics, that some of the most desperate people who fled these same wars, are detained in Australian offshore detention centres.

In this respect too, it has been suggested our Defence Forces have also been let down by the border protection policies which effectively militarised what traditionally has been a civilian matter, and arguably undermined the pre-eminent ethos and high moral standards with which our own forces seek to conduct themselves.⁸⁴

Again, this points to the need for a deeper ethical grounding and practice across our foreign affairs and security policymaking.

⁷⁹ James Brown, 'Firing Line: Australia's Path to War,' *Quarterly Essay*, Issue 62, 2016.

⁸⁰ David Wroe, 'The Secret Iraq Dossier,' *The Sydney Morning Herald*, 25-26 February 2017 <http://www.smh.com.au/interactive/2017/iraq-dossier/>

⁸¹ Henry Reynolds, *Unnecessary Wars*, NewSouth Publishing, (2016) 221.

⁸² 'There has been no inquiry into the reasons for Australian involvement, its cost or its value, despite the estimated expenditure of \$5billion. The illegality of the war, finds little purchase here. We don't even publicly discuss whether involvement was worthwhile, and there seems to be little sense that Australia has any residual responsibility for the chaotic events that have followed the overthrow of Saddam Hussein.' See Henry Reynolds, *Unnecessary Wars*, NewSouth Publishing, (2016) 217-218.

⁸³ David Wroe, *The Sydney Morning Herald*, *The Secret Iraq Dossier*, 25-26 February 2017 <http://www.smh.com.au/interactive/2017/iraq-dossier/>

⁸⁴ See for instance, Dr Alan Stephens comment on this point in ABC online, 30 July 2013, <http://www.abc.net.au/news/2013-07-30/stephens-abbott-at-odds-with-adf-purpose/4852184>

Attachment 2

Global ethical principles & refugee policy

We contrast the global ethical principles noted above, and contextualise them with recent examples of Australian actions, which arguably have been both lacking in ethical principled reflection and a more sophisticated treatment of the complexity of the circumstance being faced.

1. Global security responsibility - *It is the responsibility of all states and security actors to create deep and enduring security for all human beings, in a form that harmonises human, social, economic, cultural and political activity with the integrity of global ecosystems.*

- **No boats and no solution.** Australia effectively closed our borders and leaving asylum seekers stranded in Indonesia, seeking neither to assist Indonesia to manage the flow of displaced people, or those people who in some instances were seeking to reunite with family in Australia. It pushed people out of sight, but did little to help resolve the underlying needs or challenges faced by all agents.
- **Syrian Aid cuts.** Australia withdrew significant amounts of aid from Syria, at a crucial time when UNHCR was seeking urgent commitments and warning of the dire impending consequences.⁸⁵ The lack of international support meant a subsequent inability for the Syrian people to be housed, fed and supported with basic needs close to their borders and homelands, which helped precipitate the enormous flow of people then onwards into Europe, subsequently too having a destabilising impact in that region.

2. Future Security Responsibility - *All states and actors have a fundamental responsibility to future generations and the long-term integrity and survival of global ecosystems; a responsibility to consider the impact of their decisions, choices and commitments through time.*

- **Nauruan viability.** The Australian obsession with maintaining the detention centre on Nauru for domestic political purposes has partially blinded us to all other deeper consideration of the longer term implications, as noted above. Not only do people found to be refugees themselves have no long term prospects for settlement, but the very future viability of Nauru as a nation and a homeland (home to around 11,000 people on a small atoll island just 4 kilometres by 6 kilometres) is threatened by impending climate change. Vital energy and resources go into the maintenance of this detention facility, subsuming focus on the much greater climate threat to the entire region, including the future prospect of some Pacifica peoples becoming “environmental refugees” themselves.

3. Global categorical imperative of security - *All states and security actors bear a responsibility to act as if both the principles and consequences of their actions or policy will become global, across space and through time, and to ensure that their actions will have positive consequences that can be borne by the world as a whole.*

- **Andaman Sea Crises.** In May 2015 around 8,000 people, mostly Rohingya from Myanmar, became stranded in the Andaman Sea and around 370 were thought to have died as a result of Thai, Indonesian and Malaysian authorities pushing them back out to sea.⁸⁶ The Andaman Sea refugee crises highlighted the need for better regional mechanisms and better systems for dealing with displacement.⁸⁷ Critically for us here in Australia, it showed the limitations of our “boat turn back” policies and a “fortress Australia” approach to regional engagement. It highlighted that the Australian approach doesn’t save lives and instead constitutes a message to “go die somewhere else”⁸⁸ but also cast light on the potentially catastrophic human consequences, were countries in our region to adopt similar positions to our own.⁸⁹

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⁸⁶ <http://theconversation.com/the-andaman-sea-refugee-crisis-a-year-on-what-happened-and-how-did-the-region-respond-59686>

<http://theconversation.com/the-andaman-sea-refugee-crisis-a-year-on-is-the-region-now-better-prepared-59687>

⁸⁷ <http://theconversation.com/the-andaman-sea-refugee-crisis-a-year-on-what-happened-and-how-did-the-region-respond-59686>

<http://theconversation.com/the-andaman-sea-refugee-crisis-a-year-on-is-the-region-now-better-prepared-59687>

⁸⁸ As noted by William Maley, security expert, and Board member of RCOA - ANU, <http://www.smh.com.au/comment/die-somewhere-else-20130726-2qq3s.html>

⁸⁹ Though we note the recent positive developments with Minister Bishop public statements on Myanmar. This is precisely this kind of principled leadership our Foreign Affairs is capable of, but it cannot continue to be subsumed and warped by our obsessive and damaging preoccupation with offshore centres and deterrence regimes.

<http://www.smh.com.au/world/julie-bishop-presses-myanmar-leader-for-credible-rohingya-investigation-20170217-qufij8.html>

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