



ASRC policy position paper

**Asylum seekers
and the right to work**



March 2013

Policy statement

Asylum seekers released in to the community on a bridging visa, regardless of mode or date of arrival, should be granted the right to work.

Context

In November 2012 the then Minister for Immigration and Citizenship Chris Bowen announced a change in policy for asylum seekers who arrived by boat after 13 August 2012 and who were released into the community on a bridging visa. The policy shift prohibits any type of meaningful engagement for asylum seekers in the community – no right to work and very limited opportunities for volunteer work.

In addition to those who arrive by boat, there are other asylum seekers in the community who do not have the right to work. Some asylum seekers who arrived prior to 13 August 2012 have had their work rights revoked due to delays in lodging a claim for a Protection Visa. Some asylum seekers have been denied the right to work for long periods of time, in some cases over two years.

As research conducted by the Asylum Seeker Resource Centre (ASRC) has demonstrated, when asylum seekers are denied the right to self-sufficiency, and are prevented from undertaking training or skills development, their potential for future employment is severely diminished.¹ Asylum seekers do not want to live off welfare payments; they want to work so that they are able to support their families, contribute to their community and give themselves the best chance to start a new life here in Australia.²

While the Government initially suggested that the denial of work rights was an application of the ‘no advantage’ principle advocated in the Houston Report, it was later revealed that the Report bore no mention of a restriction of work rights for asylum seekers living in the community. Rather, the policy seemed directly linked to the Government’s belief that many of those seeking asylum were “economic migrants” rather than refugees.³

It is important to note that recent figures from the Department of Immigration & Citizenship (DIAC) show that 90.8 per cent of asylum seekers who arrive by boat are found to be refugees and are granted a protection visa, giving them permanent residency in Australia. Clearly, the vast majority are not economic migrants and have been found to meet the requirements for protection under the Refugee Convention.

Based on boat arrival numbers in 2012 and community release figures so far for 2013, it is estimated that 10,000 asylum seekers will be released into the community this year without the right to work. There is no guarantee of the level of support that will be provided to these people.

1 http://www.ajustaustralia.com/informationandresources_researchandpapers.php?act=papers&id=68

2 <http://www.refugeecouncil.org.au/r/rpt/2010-Employment.pdf>

3 Gordon, M. (2012). “Backlash forces retreat on refugee work rights,” *The Age* 27 November, <http://www.smh.com.au/opinion/political-news/backlash-forces-retreat-on-refugee-work-rights-20121126-2a3wq.html#ixzz2Kug4Zt5t>

Why asylum seekers should be granted the right to work



‘When I wasn’t allowed to work I felt quite hopeless and came to the brink of being homeless. When I was allowed to work, I feel I am able to plan out my future, I am achieving things’

Asylum seekers are not economic migrants

Asylum seekers are people who are exercising their right under the United Nations Refugee Convention to seek protection and apply for refugee status.

A refugee is someone who “owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his or her habitual residence, is unable, or, owing to such fear, is unwilling to return to it.”¹

Recent figures from DIAC show that 90.8 per cent of asylum seekers who arrive by boat are found to be refugees and are granted a protection visa, giving them permanent residency in Australia. Clearly, the vast majority are not economic migrants and have been found to meet the protection requirements under the Refugee Convention.²

Foreign Minister Bob Carr has led the charge against asylum seekers from Sri Lanka being portrayed as economic migrants.³ This is in spite of mounting evidence to the contrary. The stigmatisation of asylum seekers from this region by the Australian Government stands in stark contrast to the recent reports of gross human rights violations still occurring in Sri Lanka. Organisations such as Human Rights Watch and Amnesty International have both spoken out on the devastating – and continuing – impacts of the 26-year-long civil war.⁴ The United Nations has reported that the region is still unstable, and that progress on reconciliation and reparations after the war have been delayed by government interference.⁵ Despite this wealth of evidence to the contrary, the Australian Government still actively portrays those who arrive from the region as seeking economic relief, rather than freedom from persecution.

1 <http://www.unhcr.org/pages/49da0e466.html>

2 http://www.immi.gov.au/media/publications/statistics/asylum/_files/asylum-stats-september-quarter-2012.pdf

3 <http://www.theaustralian.com.au/national-affairs/immigration/foreign-minister-bob-carr-warns-of-180000-boatpeople/story-fn9hm1gu-1226463502573>

4 <http://www.hrw.org/asia/sri-lanka>

5 See: <http://www.un.org/apps/news/story.asp?NewsID=38194#.UUFIZhxZa5>; <http://www.un.org/apps/news/story.asp?NewsID=43508#.UUF1aBxFZa5>; and http://www.un.org/News/dh/infocus/Sri_Lanka/POE_Report_Full.pdf

A longitudinal study examining the reasons for asylum seekers leaving their homes revealed eight 'push' factors, ranging from persecution factors such as repression of minorities and civil war, to development factors such as poverty and low life expectancy.¹ Significantly, when these eight factors were ranked in terms of importance, economic or development drivers did not feature prominently at all. In fact, across the ten surveyed countries, the only factor that was common to all was persecution and civil conflict. Recent research conducted by the Parliamentary Library Services concluded that "refugees may be poor (although this is not always the case) but it is their experience of persecution and threat to safety that compels them to leave their home and seek asylum". The deliberate perpetuation of the myth of "boatloads of economic migrants" has been one of the most damaging to the moral heart of this nation.²

Work is an antidote to poverty and despair

Moving asylum seekers out of detention and into the community without adequate access to rights and entitlements serves only to foster destitution.³

It also:

- **causes deteriorated mental and physical health amongst asylum seekers;**
- **has the potential to create a supply of illegal labourers, exposing asylum seekers to exploitation and harm in workplaces; and**
- **outsources basic government services to already overstretched and under resourced charities, creating a tiered system of welfare.**

Twelve years of advocacy and engagement with asylum seekers has provided the ASRC with a unique insight into the lives and experiences of those seeking a new life in Australia.⁴ We know that asylum seekers do not want to live off welfare payments; they want to work so they are able to support to their families and contribute to their community. Asylum seekers see meaningful employment as vital in providing a greater sense of belonging and value to their lives as they settle in Australia.⁵

As asylum seekers released into the community are not able to work many will be forced to rely on the not for profit sector for additional support. This will put strain on already under resourced organisations. The ASRC has seen a doubling in presentations over the past 12 months and expect this to increase as more asylum seekers are granted bridging visas without the right to work. As the case studies below demonstrate, the pressure this policy has placed on the not for profit sector is being felt nationwide. Agencies such as the Asylum Seeker Project in Melbourne, Asylum Seekers Centre in Sydney and the Brisbane Refugee Asylum Seeker Support Network and members of the Network of Asylum Seekers Vic (NASAVic) are reporting a sharp increase in demand for their services.

There is an economic benefit that asylum seekers contribute – by being gainfully employed they spend money and pay tax. Having an underclass of asylum seekers who are homeless, desperate and depressed is not good for the Australian community.

1 Castles, S. & Loughna, S. (2005). "Trends in asylum migration to industrialized countries, 1990–2001," in G Burjas and J Crisp (eds), *Poverty, International Migration and Asylum*, New York, Palgrave Macmillan, p. 60.

2 http://parlinfo.aph.gov.au/parlInfo/download/library/prspub/2209855/upload_binary/2209855.pdf;fileType=application/pdf

3 <http://theconversation.edu.au/asylum-seeker-bridging-visas-experts-respond-10935>

4 <http://www.asrc.org.au/media/documents/asrc-welfare-paper.pdf>

5 See, for instance: Hornton, L. (2007). "Upon the limits of rights regimes: Reception Conditions of Asylum Seekers in the Republic of Ireland," *Refugee, Canadian Periodical on Refugees*, 24 (2), 86 – 100; Liddell, B. (2012). "One Step Forward, Two Steps back for Asylum Seeker Mental Health," UNSW School of Psychology; Prior, J. (2008). "Asylum Matters: Restoring Trust in the UK Asylum System," *Asylum & Destitution Working Group, Breakthrough Britain*; Schuster, L. (2000). "A Comparative Analysis of the Asylum Policy of Seven European Governments," *Journal of Refugee Studies*, 13(1), 118 – 132; Silove, D., Austin, P., & Steel, Z. (2007). "No refuge from terror: the impact of detention on the mental health of trauma-affected refugees seeking asylum in Australia," *Transcultural Psychiatry*, 44(3), 359 – 393; and, Steel, Z., Momartin, S., Silove, D., Coello, M., Aroche, J., & Tay, K. (2011). "Two year psychosocial and mental health outcomes for refugees subjected to restrictive or supportive immigration policies," *Social Science & Medicine*, 72(7), 1149 – 1156, http://epubs.scu.edu.au/cgi/viewcontent.cgi?article=1606&context=sass_pubs

Clients of ASSET (the ASRC's employment program) have demonstrated that when asylum seekers are employed in the community, they can make a tremendously positive contribution.

Asylum seekers who actively seek employment are committed workers keen to contribute their skills, resilience and ingenuity to the community. In 2011-2012, the ASSET program secured 180 paid work placements for asylum seekers. From a sample of 106 asylum seekers who gained paid employment last year, they worked a collective total of 54,996 hours. Multiplied by the federal minimum wage, this comes to \$877,736.16.

Case studies from agencies

We have seen that the demand for our food is always greater when asylum seekers are forced to rely on the charity of Australians rather than contribute to our country through work.



“We are seeing a lot of asylum seekers who are not permitted to work. These clients are destitute and we are unable to help everyone who approaches this service.”

“We have already run out of our annual allocation for vouchers given that many of these clients are sleeping on the floor.”

The right to work is enshrined in international law

The right to work for asylum seekers is a fundamental human one which Australia must respect.

Australia is a party to seven core international human rights treaties.¹ The right to work and rights in work are contained in articles 6(1), 7 and 8(1)(a) of the International Covenant on Economic, Social and Cultural Rights (ICESCR).

The right to work affirms the obligation of States parties to assure individuals their right to freely choose or accept work, including the right not to be deprived of work unfairly. This definition underlines the fact that respect for the individual and his dignity is expressed through the freedom of the individual regarding the choice to work, while emphasising the importance of work for personal development as well as for social and economic inclusion.²

In its concluding comments on Australia in 2009, the ICESCR noted its concern with the high unemployment rates among asylum seekers and the significant difficulties they face to enjoy their right to work equally.³

The right to work is also contained in articles 8 and 22 of the International Covenant on Civil and Political Rights (ICCPR), articles 5(e)(i) and (ii) of the Convention on the Elimination of All Forms of Racial Discrimination (CERD), articles 11 and 14(2)(e) of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), article 32 of the Convention on the Rights of the Child and article 27 of the Convention on the Rights of people with disability (CRPD).

¹ <http://www.ag.gov.au/RightsAndProtections/HumanRights/PublicSectorGuidanceSheets/Pages/Righttoworkandrightsatwork.aspx>

² <http://www.ag.gov.au/RightsAndProtections/HumanRights/PublicSectorGuidanceSheets/Pages/Righttoworkandrightsatwork.aspx>

³ Committee on Economic, Social and Cultural Rights, Concluding Comments on Australia 2009 E/C.12/AUS/CO/4 at para. 18

The right to work enables asylum seekers to contribute to the Australian economy, society and way of life

After arriving in Australia, Debbie was anxious and negative about her future prospects. She was very despondent and had no self-confidence. Supported by ASSET (the ASRC's Employment Program), Debbie completed her Health Services Assistant Certificate through the Northern Melbourne Institute of TAFE and after doing her placement in a local hospital was offered a position by her employer. With access to education and the offer of work, Debbie's life turned around.

"Before I thought I had limited work options, now I know I can do Health Services Assistance. This course changed my life, before I felt there was nothing I could do. It has been very good for my self-esteem."

For the first time she felt valued and recognised as somebody who has respected skills. Her physical and mental health improved as having a remunerated job enhanced her social life and she was no longer sitting at home and worried and depressed.

Humanitarian settlers are currently filling important labour shortages in the Australian economy – in low skill, low status and low paid occupations, particularly in regional settings.¹ Sophie Dutertre from the ASRC's Employment and Training Program (ASSET) notes the sorts of jobs asylum seekers take up include jobs at meat works, recycling factories, and the service industry including aged care and health services. This is not because asylum seekers are less skilled. In fact, one third of humanitarian entrants have post-school qualifications, however their skills are not always being fully utilised in the labour market.

Asylum seekers want to be able to contribute and want to be self-sufficient.² Asylum seekers have a strong sense of self worth and obligations towards providing for their families attached to employment. They are no different to anyone else. Their outlook generally changes as long term unemployment sets in.³ Early intervention and being granted the right to work are key to ensuring asylum seekers have the best chance of participating in the workforce.

In its recent appearance before the Parliamentary Joint Committee on Human Rights, the Australian Human Rights Commission expressed their deep concern that the limited bridging visa without the right to work impedes the opportunity for asylum seekers to rebuild their lives and to make a contribution to Australian society.⁴

1 http://www.immi.gov.au/media/publications/research/_pdf/economic-social-civic-contributions-booklet2011.pdf

2 <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;db=COMMITTEES;id=committees%2Fcommsen%2Faaa51aa0-6deb-4973-ab4b-e3c2b114a28d%2F0001;query=Id%3A%22committees%2Fcommsen%2Faaa51aa0-6deb-4973-ab4b-e3c2b114a28d%2F0002%22>

3 <http://www.asrc.org.au/media/documents/asrc-welfare-paper.pdf>

4 http://parlinfo.aph.gov.au/parlInfo/download/committees/estimate/dca139da-f442-48cb-974a-3b95c2e4a42c/toc_pdf/Legal%20and%20Constitutional%20Affairs%20Legislation%20Committee_2013_02_12_1704.pdf;fileType=application%2Fpdf#search=%22committees/estimate/dca139da-f442-48cb-974a-3b95c2e4a42c/0000%22

Most of the ASRC's employment program clients are men who not only need an income to survive, but whose sense of self is intricately bound up in employment. The difference in a person who goes from being reliant on welfare to obtaining employment is transformative – going from downtrodden and despondent to a person with dignity. The benefits for the local community and economy speak for themselves – especially in areas of labour shortage in Australia.

Staff Australia employs 2500 people a day, as specialised workforces for clients in a wide range of industries. CEO Michael Campion has no hesitation in employing asylum seekers.

“What we've found is that they are very diligent,” he says. “They are extremely keen to work, in many ways having a job is life changing for them, and it's important to say that we give them exactly the same pay and conditions as any other Australian worker.”

Mr Campion says asylum seekers' work performance is great, and the valuable skill-sets they bring from their overseas experiences can be applied here. “For instance we supply people to call centres who are multilingual, and they are very capable of dealing with people.”

Mr Campion says Australia is experiencing a shortage of workers in many skilled areas, and asylum seekers can fill an important need. “Take the health and aged care industry for example,” he says. “We find it very difficult to find people with experience in fields like nursing, and if required, we can help them to get further training so they are qualified to work here. Asylum seekers are extremely pleased to be given an opportunity, and from an employer's point of view, they tend to stay in the job longer.”

Asylum seekers have specialised employment support needs

The overwhelming majority of asylum seekers want to support themselves rather than relying on charity and many have skills, experience and qualifications that Australia seeks in skilled migrants. In October 2009, an audit of working-age asylum seekers indicated that 40 per cent of respondents had skills on DIAC's skilled Occupation List for General Skilled Migration.¹ However, many migrants find navigating the process of looking for work in Australia intimidating and frustrating. Asylum seekers face additional hardships. The right to work is needed to avoid forced unemployment however it does not guarantee the ability to secure work.

Asylum seekers face all of the barriers to employment that refugee and other humanitarian entrants face, as well as additional obstacles, including lack of understanding about the rights of asylum seekers and even the stigmatisation of businesses employing asylum seekers living in the Australian community.² Asylum seekers have extremely limited and sometimes no access to other generalist or refugee-targeted support services, including employment assistance.

In 2009, the ICESCR recommended that special programmes and measures be designed to address the significant barriers to the enjoyment of the right to work faced by many asylum seekers including measures to protect them from exploitation.³

Without a targeted approach to employment support services and pathways to employment for asylum seekers in the community, those people who have work rights will not be able to participate fully in the job market and may remain reliant on charitable organisations.

Case study

Ms Thaly arrived in Australia with ten years of experience as a Personal Assistant. Soon after arriving she began applying for jobs on the internet. As she had no access to employment services, she made numerous applications for administration positions on her own – none of them were successful.

Without Australian experience, qualifications or knowledge of the job application process she was not competitive in the job market. After two years of unemployment, Ms Thaly found that her skills and self-esteem had deteriorated to the point where she felt she was unable to gain employment and she frequently experienced depression. Ms Thaly remains dependent on welfare services.

1 Black, A. (2009). "Asylum seeker skills audit: an audit of skills amongst asylum seekers in Melbourne," Hotham Mission Asylum Seeker Project, Melbourne.

2 <http://www.asrc.org.au/media/documents/asrc-welfare-paper.pdf>

3 Committee on Economic, Social and Cultural Rights, Concluding Comments on Australia 2009 E/C.12/AUS/CO/4 at para. 18

Case study

Mr Abraham arrived in Australia after having worked in warehousing for eight years. He was very keen to work in this field so that his skills and experience would be best utilised and began to apply for jobs. After several unsuccessful applications, he realised that his prior work was not valued by Australian employers who were extremely reluctant to employ him without any local experience.

The ASRC Employment Program (ASSET) began working with Mr Abraham and recommended he attain a local qualification and gained Australian workplace experience. Mr Abram in was placed into a warehouse and logistics course with the assistance of the Employment Program at the ASRC. He also found work experience in a warehouse through the employer Partnerships unit of ASSET. On completion, Mr Abraham found that his eight years of work experience were viewed favourably by employers as it enhanced his Australian qualification and work place experience.

Case study

Upon fleeing Iran, Tammy left behind years of working as a Criminal and Corporate Lawyer. By seeking asylum, she had to start again as her professional skills were not recognised in Australia.

When I arrived in Australia, my first thought was that I needed tools to project for my future. To me, the principle of a good person is education and a profession. I wanted to become a nurse, but as I was on a bridging visa, I couldn't study a Bachelor Degree. After being told I could complete a Certificate III in Aged Care, there was a light in my life. All my problems and depression decreased as my mind opened with study – it saved my life.

I want to show the Australian Government that to keep people going in life, they don't need to be given a fish, they need to be taught how to fish. My recommendation for the Government is that the principle that makes a good person is their culture and education – and to contribute to make Australia a great country, people need access to education and a profession.

Tammy is currently thriving in her position at MECWA centre and now that she is a Permanent Resident plans to study a Nursing Degree.

Case study

Luz moved from Colombia where she worked as a medical doctor and communication advisor to multinational companies. Upon arriving in Australia as a non-English speaking migrant, her inability to communicate scoured her sense of self-worth. Meeting other migrant women in the community, Luz found that “without language” the women had low self-esteem, and worryingly Luz observed that many female asylum seekers had fallen victim to domestic violence as a result. Luz felt that the way to improve the women’s self esteem was to find a way to push them into an English working environment and in 2011, developed her own social enterprise called Handmade by Multicultural Women. She gathered 21 migrant women into an entrepreneurial group that sells handicrafts at local markets. These women support each other by speaking English whilst working, and are empowered as they leave home for their own activities and gain a sense of economic and social independence. Right now, Luz is looking for grants that will enable her to provide retail training for the women, and in the long-term would like to organize different social enterprises to help asylum seeker women contribute to the Australian community.

Case study

Lwazi’s Australian student visa linked with work rights enabled him to support himself whilst being away from the danger that plagued his home country.

My aspirations for the future, include volunteer work and contributing to the community; being a positive role model for others; working in the mining industry as a consultant.

The dangerous political situation within Lwazi’s country of origin had deteriorated, leading to the persecution of his family members and murder of one family member. Lwazi became aware that he could not return to his country of origin due to fear of persecution. Lwazi has awaited a final outcome of his Protection Visa application process since November 2010.

Recommendations

- An undertaking from the Minister for Immigration & Citizenship to immediately extend the right to work to all asylum seekers released into the community on bridging visas, regardless of mode or date of arrival or stage in the refugee determination process.
- That the right to work is accompanied by the provision of basic employment support services to increase asylum seekers' chance of employment.

About the ASRC

The Asylum Seeker Resource Centre (ASRC) protects and upholds the human rights, wellbeing and dignity of asylum seekers. We are the largest provider of 25 aid, advocacy and health services for asylum seekers in Australia. Most importantly, at times of despair and hopelessness, we offer comfort, friendship, hope and respite.

We are an independent, registered non-governmental agency and we do not receive any direct program funding from the Australian Government. We rely on community donations and philanthropy for 95 per cent of our funding.

We employ 40 staff and rely on over 800 dedicated volunteers. We deliver services to over 1,250 asylum seekers at any one time through programs such as material aid, health, legal, counseling, casework and foodbank.

ASRC's vision is that all those seeking asylum in Australia have their human rights upheld and that those seeking asylum in our community receive the support and opportunities they need to live independently.

www.asrc.org.au