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Migration and Refugees

209. Labor believes in dealing with the complex issue of those seeking Australia's protection by giving expression to the values of compassion, fairness and generosity. These are values which are at the heart of the Australian identity.
210. Labor will treat people seeking our protection with dignity and compassion and in accordance with our international obligations and core Australian principles of fairness and humanity. **Labor will legislate to enshrine our international obligations into Australian domestic law.**
211. Labor recognises that, under the Refugee Convention, asylum seekers have the right to seek protection and asylum and that, regardless of the mode of arrival, this is not illegal under Australian or international law. Accordingly, Labor rejects the practice of referring to asylum seekers as "illegals".
212. Labor believes that as a country Australia must not harm people.
213. The issue of those seeking protection is both a global and regional one. Accordingly, in order to achieve a long-term resolution to the issue, it must be dealt with through international cooperation and not unilateral action. Within our region, Australia must play a leadership role.
214. A fundamental principle in treating those seeking protection with humanity is to provide as much certainty as possible. An aspiration of certainty in all matters around asylum seekers, including the duration of assessing refugees' claims, must underpin Australian policy.
- Labor will work to ensure that those in detention facilities are treated with dignity and respect and have access to an appropriate standard of care and substantive access to health and education services while held in IDCs.**

International Engagement

215. Labor will seek to lead debate on the new agreements and understandings required to ensure that the Refugee Convention and the international protection system function effectively over the long-term, including encouraging countries in our region to provide protection to those in need.
216. Recognising that irregular movement is a regional issue that requires a co-operative regional approach, Labor will engage with Australia's neighbours to seek innovative and effective solutions to the irregular movement of people through the region. This approach will include multilateral engagement, particularly through the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime (the Bali Process), and bilateral arrangements of a type envisaged by the Regional Cooperation Framework agreed at the Bali Process Ministerial Conference in March 2011.

217. The phenomenon of people smuggling has a long history arising from the need for people to escape from danger and persecution. Labor also recognises that those who decide to leave a country in perilous circumstances have the right under the Refugee Convention to determine their means of departure. However, recognising the risk to life of people travelling on unsafe, unseaworthy and overcrowded boats, Labor supports measures to reduce such journeys by working with regional neighbours and the Office of the United Nations High Commissioner for Refugees to eliminate any pull that people smugglers may have over vulnerable protection claimants by:

- Addressing people smuggling at its source;
- Pursuing strong regional and international arrangements which provide access to protection in countries of first asylum to deter secondary movements of asylum seekers;
- Developing the capacity, both in countries of first asylum and transit countries, to improve living standards and protection outcomes for asylum seekers who may be vulnerable targets of people smugglers;
- Expediting the claims for refugee status by asylum seekers in the region; and
- Increasing the humanitarian intake of **genuine** refugees from source and transit countries to create an orderly pathway to resettlement in Australia and provide asylum seekers with an alternative to ~~irregular~~ boat travel to Australia.
- **Labor rejects the Coalition's policy of turnbacks and will abolish the enabling legislation.**

218. Noting that Pacific Island nations have a particular vulnerability to the effects of climate change, and that these nations have expressed a clear desire for Pacific peoples to continue to live in their own countries where possible, and acknowledging Australia's unique responsibilities in the Pacific, Labor will:

- Support Pacific Islanders to remain in their homelands as the first response to this challenge;
- Work to assist with intra-country relocations when citizens have to be moved from low-lying areas to higher ground; and
- In the event that in the longer term permanent migration becomes necessary for some Pacific Islanders, work in close consultation with the region to ensure that appropriate settlement is achieved.

219. Labor will continue Australia's contribution to international aid efforts to alleviate the pressing humanitarian needs of displaced persons.

Humanitarian Migration Programme

220. Labor aspires to progressively increase Australia's humanitarian intake to 27,000 places per year.

221. In continuing Australia's generous humanitarian program, Labor will work to provide appropriate support for the travel and resettlement of refugees and others requiring Australia's protection.

Australia's Border

222. For the Australian people to have confidence and trust in the integrity of our migration system, Labor will fund and maintain robust border security measures that support the orderly processing of migration to our country and protect our national interest and our national borders.

223. Labor will ensure that asylum seekers who arrive by irregular means will not be punished for their mode of arrival.

224. Labor is united in its commitment to prevent further loss of life at sea of vulnerable children, women and men. Labor will:

- Meet its obligations to the maritime principle of safety of life at sea which requires a response to assist in the rescue at sea of vessels in distress;
- Consider introducing further penalties for serious people smuggling offences; and
- Ensure repatriation of crew members who are proven to be juveniles.

225. ~~To support Australia's strong border security regime, Labor will maintain:~~

- ~~• An architecture of excised offshore places; and~~
- ~~• The non-statutory processing on Christmas Island of persons who arrive unauthorised at an excised place, except where other arrangements are entered into under bilateral and regional arrangements.~~
- Labor will dismantle the architecture of excision and end the associated non-statutory processing of applications for protection visas.
- Labor will close the detention centres in Nauru and Manus Island.

Immigration Detention

226. Under Labor's policies, the presumption will be that unauthorised arrivals who enter for the purpose of seeking asylum will, after appropriate checks, be detained only if the need is established.

227. Labor's humane and risk-based immigration detention policies and practices will be guided by key immigration detention values, namely:

- ~~Three~~ **Two** groups will be subject to mandatory detention. ~~Labor will strive to ensure that this is for no longer than 90 days.~~
 - All unauthorised arrivals, for management of health, identity and security risks to the community. ~~Labor will strive to ensure this is for 90 days only;~~ **Where adult asylum seekers without children arriving by sea are detained for the purpose of health, identity and security checks detention will be capped at a maximum of 30 days unless a court determines otherwise.**
 - Unlawful non-citizens who present proven unacceptable risks to the community; ~~and~~
 - ~~Unlawful non-citizens who have been proven to persistently refuse to comply with their visa conditions;~~

- Detention that is indefinite or otherwise arbitrary is not acceptable and the length and conditions of detention, including the appropriateness of both the accommodation and the services provided, will be subject to regular review;
 - Detention in an IDC is only to be used as a last resort and for the shortest practicable time;
 - People in detention will be treated fairly and reasonably within the law; and
 - Conditions of detention will ensure the inherent dignity of the human person.
228. ~~Labor's humane and risk-based immigration detention policies and practices will include a commitment to ensure that after the necessary health, identity and security checks every humanly practical effort will be taken to remove children and their families from immigration detention centres (IDCs) into alternative arrangements~~
Unaccompanied children and children of asylum seekers arriving by sea will be placed into community run reception centres together with their families.
229. Labor will ensure that all Australian Government involvement in detention facilities it operates or funds is subject to transparent, independent oversight. Provisions for this oversight will be reflected in all contracts with service providers. Labor in government will use its best endeavours to provide for this oversight in any relevant international agreements.
230. Recognising the inequities of the policy of charging immigration detainees a daily maintenance rate while in immigration detention, Labor extinguished such detention debts and will oppose any attempts to reinstate this practice.
231. As soon as the reasons for mandatory detention have ceased every effort must be made to remove asylum seekers from IDCs through community detention or the granting of bridging visas with work rights. Means-tested access to migration assistance should be provided while the merits of an asylum seeker's application are assessed.
232. The management of IDCs will remain with private sector management for the term of the current contracts. In evaluating the future form of detention facility and detention services management the views of all stakeholders, including the relevant trade unions must be taken into account.

Refugee Assessment

233. Labor believes protection claims made in Australia should be assessed and reviewed on the individual merits with procedural fairness ensuring that our international human rights obligations are met. Accordingly:
- The assessment and review of protection claims should be underpinned by robust, efficient and transparent processes that ensure fair and consistent outcomes, including access to review and independent advice;
 - The assessment and review of protection claims must be independent and free from any political or diplomatic interference;
 - The processing of protection claims must be streamlined to enhance the quality of decision-making, to provide more efficient pathways for prompt resolution of visa status and to alleviate the courts' immigration case-load burden; and
 - The Stone Review process will be maintained as an important mechanism for ensuring the fairness of Australia's security assessment system.

234. Labor will require the National Security Legislation Monitor to advise on establishing other mechanisms for independent review of the adverse security assessments that ensures procedural fairness while recognising that processes may be required to protect intelligence sources and methodology.
235. Labor will explore options other than indefinite detention including third country resettlement to deal with refugees with adverse security assessments in a way that does not jeopardise Australia's national security interests.
236. Reporting on the '90 day rule', which requires that refugee status determinations are concluded within 90 days from the time of application, has been an important accountability measure in ensuring that the Government operates in a timely way in assessing protection applications.
237. Labor in Government will reintroduce the 90 day rule into the Migration Act.
238. The existing fast track assessment process under the auspices of the Immigration Assessment Authority and the limitation of appeal rights does not provide a fair, thorough and robust assessment process for persons seeking asylum.
239. Labor in Government will abolish this fast track assessment process.
240. Labor believes the Refugee Convention plays a critical role in Australian law. Referring to the Refugee Convention in the Migration Act 1958 is good legislative practice.
241. Labor in Government will reintroduce the appropriate references to the Refugee Convention into the Migration Act.
242. Protection ~~visa applications~~ **claims** made in Australia ~~should~~ **will** be assessed by Australians on Australian territory.

Labor rejects any changes to the definition of 'serious harm' or 'persecution' including any change to the risk threshold from the 'real chance test' to the 'more likely than not test'

243. Under legislation passed by Labor, complementary protection claims should be considered by way of the protection visa framework.

Australia's Protection

244. Those found to be owed Australia's protection under the Refugee Convention and other international instruments should be given permanent protection under the Migration Act.

Labor will work to ensure that asylum seekers have access to independent, government-funded legal advice while working through their claims for protection.

245. Those not found to be owed Australia's protection under the Refugee Convention, **Complementary Protection** and other international instruments ~~should~~ **will** be promptly returned **only after any relevant legal avenues have been exhausted.**
246. Temporary Protection Visas place refugees in an ongoing state of uncertainty and prevent meaningful settlement, creating hardship for refugees and denying Australia the benefit of their contribution.
247. Labor in Government will abolish Temporary Protection Visas **and provide permanent protection.**

Settlement of Refugees

248. Australia's settlement support services are regarded as the best in the world. Labor is committed to maintaining this and accordingly will ensure that sufficient focus and resources are directed to our settlement services.
249. Labor will work to ensure the provision of appropriate English language tuition as an essential settlement service which is critical to the achievement of full social and economic participation of refugees.
250. Labor will seek to improve the availability and integration of Commonwealth-funded migrant and settlement services. Labor will ensure settlement service policies are:
- Informed by advice from the Refugee Resettlement Advisory Council, the Settlement Council of Australia and other key stakeholders and the community; and
 - Coordinated in partnership with state and territory governments, local councils, community organisations and service delivery providers.
251. Labor is committed to ensuring that services across government for refugees are culturally responsive, universally accessible and consistent with Labor's social inclusion agenda.
252. Labor acknowledges the positive effect regional settlement can have on rural locations. Labor supports the settlement of suitable humanitarian entrants in regional locations with the support of state and local governments and local communities.

The Economic and Social Contribution of Migrants and Refugees

253. Labor recognises the economic and social contribution that has been made by migrants and refugees throughout our nation's history. Labor regards Australia's diversity as a source of national strength and a critical factor in nation building.
254. Australia is and will remain a society of people drawn from a rich variety of cultural, ethnic, linguistic and religious backgrounds. Australia is and will remain a multicultural society.
255. To support Australia's multicultural society, Labor's migration policies will:
- Remain non-discriminatory;
 - Respect the heritage and traditional customs of migrants and their children;
 - Recognise the importance of all aspects of the migration program, including skilled, family and humanitarian streams;
 - Support Australia's social cohesion by encouraging universal respect for Australia's democratic beliefs and laws, and the rights, responsibilities and privileges of Australian citizenship;
 - Consistently oppose those who foster extremism, hatred, ethnic division or incitement to violence; and be evidence-based, supported by rigorous research and evaluation.