

31 October 2012

UNHCR Statement

Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Bill 2012

UNHCR's longstanding view is that under international law any excision of territory for a specific purpose has no bearing on the obligation of a country to abide by its international treaty obligations which apply to all of its territory. This includes the 1951 Refugee Convention, to which Australia is a party.

UNHCR's preferred position has always been for all asylum-seekers arriving into Australian territory, by whatever means, and wherever, to be given access to a full and efficient refugee status determination process in Australia. This would be consistent with general practice, and in line with the principle of non-discrimination.

If asylum-seekers are transferred to another country, the legal responsibility for those asylum-seekers may in some circumstances be shared with that other country, but such an arrangement would not relieve Australia of its own obligations under the Convention.

In this respect UNHCR considers it imperative that all asylum-seekers affected by the '13 August' arrangements be provided with a fair and effective asylum procedure, with due process, as soon as possible, and that any detention of asylum-seekers be strictly in accordance with Australia's refugee and human rights law obligations.

UNHCR is increasingly concerned about the unresolved status of the more than 5,700 people who have arrived in Australia since 13 August and who are being held in detention in Australia and Nauru. This effective suspension of processing raises serious legal issues, as well as concerns for the health and wellbeing of those affected.