



Asylum seekers and refugees: what are the facts?

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Introduction

The magnitude and complexity of the issues arising from the flow of asylum seekers and refugees globally poses huge challenges for the world's destination countries, including Australia. These countries universally struggle to maintain a balance between controlling national borders and offering protection to millions of displaced people.

When the Office of the United Nations High Commissioner for Refugees (UNHCR) was established in 1951, there were approximately 1.5 million refugees internationally.¹ At the end of 2011 there were an estimated 42.5 million forcibly displaced people worldwide, including 15.2 million refugees (10.4 million under UNHCR mandate), 895 000 asylum seekers and 26.4 million internally displaced persons (IDPs). Almost three quarters of the world's refugees under UNHCR mandate, approximately 7.1 million, remained in protracted situations at the end of 2011.²

The Australian Government has recognised the magnitude of these global trends noting that the numbers of people seeking asylum in Australia are small compared to those seeking asylum in Europe and other parts of the world.³

Australia has a long history of accepting refugees for resettlement and over 750 000 refugees and displaced persons, including thousands during and immediately after World War II, have settled in Australia since 1945.⁴ However, despite this long-term commitment, there is a great deal of confusion and misinformation in the public debate in Australia particularly around the terms asylum seekers, refugees, 'illegals', 'queue jumpers' and 'boat people' which are often used interchangeably and/or incorrectly.

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1. D McMaster, *Asylum seekers: Australia's response to refugees*, Melbourne University Press, Melbourne, 2001, p. 9.
 2. United Nations High Commission for Refugees (UNHCR), *2011 Global trends*, Geneva, June 2011, p. 2, viewed 11 January 2013, <http://www.unhcr.org/4fd6f87f9.html> The UNHCR collects statistics for several population categories collectively referred to as 'persons of concern': **Refugees**: individuals recognised under the *1951 Convention relating to the Status of Refugees*; its 1967 Protocol; the *1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa*; those recognised in accordance with the UNHCR Statute; individuals granted complementary forms of protection; or, those enjoying 'temporary protection'. The refugee population includes people in a refugee-like situation. **Asylum-seekers**: individuals who have sought international protection and whose claims for refugee status have not yet been determined. **Internally displaced persons**: people or groups of individuals who have been forced to leave their homes or places of habitual residence, in particular as a result of, or in order to avoid the effects of armed conflict, situations of generalised violence, violations of human rights or natural, or human-made disasters, and who have not crossed an international border, UNHCR, *2008 Global trends*, Geneva, June 2009, pp. 3–6, viewed 11 January 2013, <http://www.unhcr.org/4a375c426.html>
 3. In one of her first speeches as Prime Minister Julia Gillard acknowledged that in 2009 Australia only received 0.6 per cent of the world's asylum seekers; see J Gillard (Prime Minister), 'Moving Australia forward: address to the Lowy Institute', Sydney, 6 July 2010, viewed 4 February 2013, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressrel%2FIE8X6%22>
 4. Department of Immigration and Citizenship (DIAC), *Key facts in immigration*, fact sheet no. 2, DIAC website, viewed 11 January 2013, <http://www.immi.gov.au/media/fact-sheets/02key.htm>

The purpose of this background note is to present information (in a simplified format) that may help address some of the popular misconceptions that surround asylum issues. It includes information on asylum claims, unauthorised arrivals and irregular migration in Australia and Europe.

What is the difference between an asylum seeker and a refugee?

There is a great deal of confusion about the difference between an asylum seeker and a refugee and often the terms are used interchangeably or incorrectly. An asylum seeker is someone who is seeking international protection but whose claim for refugee status has not yet been determined. In contrast, a refugee is someone who has been recognised under the *1951 Convention relating to the status of refugees* to be a refugee. The Convention defines a 'refugee' as any person who:

... owing to 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 former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it ...⁵

The definition of 'refugee' does not cover other individuals or groups of people who leave their country only because of war or other civil disturbance, famine, natural disasters or in order to seek a better life. As the UNHCR explains:

Economic migrants normally leave a country voluntarily to seek a better life. Should they elect to return home, they would continue to receive the protection of their government. Refugees flee because of the threat of persecution and cannot return safely to their homes in the prevailing circumstances.⁶

Are asylum seekers 'illegals'?

Generally speaking 'illegal immigrants' are people who enter a country without meeting the legal requirements for entry (without a valid visa, for example). However, under Article 14 of the 1948 *Universal declaration of human rights*, everyone has the right to seek asylum and the 1951 Refugee Convention prohibits states from imposing penalties on those entering 'illegally' who come directly from a territory where their life or freedom is threatened.⁷

The UNHCR emphasises that a person who has a well-founded fear of persecution should be viewed as a refugee and not be labelled an 'illegal immigrant' as the very nature of persecution means that

5. UNHCR, *Convention relating to the status of refugees*, UNHCR, Geneva, 2007, p. 16, viewed 11 January 2013, <http://www.unhcr.org/3b66c2aa10.pdf>

6. UNHCR, 'Protecting refugees', UNHCR website, viewed 11 January 2013, <http://www.unhcr.se/en/who-we-help/refugees/protecting-refugees-qa.html>

7. UN, *The universal declaration of human rights*, 1948, UN website, viewed 11 January 2013, <http://www.un.org/en/documents/udhr/>; and UNHCR, *Convention relating to the status of refugees*, op. cit.

their only means of escape may be via illegal entry and/or the use of false documentation.⁸ The Refugee Council of Australia similarly notes the practical difficulties encountered by asylum seekers in obtaining the requisite documentation prior to departure:

Asylum seekers do not break any Australian laws simply by arriving on boats or without authorisation. Australian and international law make these allowances because it is not always safe or practicable for asylum seekers to obtain travel documents or travel through authorised channels. Refugees are, by definition, persons fleeing persecution and in most cases are being persecuted by their own government. It is often too dangerous for refugees to apply for a passport or exit visa or approach an Australian Embassy for a visa, as such actions could put their lives, and the lives of their families, at risk. Refugees may also be forced to flee with little notice due to rapidly deteriorating situations and do not have time to apply for travel documents or arrange travel through authorised channels. Permitting asylum seekers to enter a country without travel documents is similar to allowing ambulance drivers to exceed the speed limit in an emergency – the action would be ordinarily be considered illegal, but the circumstances warrant an exception.⁹

Asylum seekers irrespective of their mode of arrival, like others that arrive in Australia without a valid visa, are classified by Australian law to be 'unlawful non-citizens'. However, the term 'unlawful' does not mean that asylum seekers have committed a criminal offence. There is no offence under Australian law that criminalises the act of arriving in Australia or the seeking of asylum without a valid visa.¹⁰

The confusion about legal status arises from those arriving by boat doing so without a valid visa or any other appropriate authorisation, whereas most, though not all, who arrive by air and then seek asylum, usually enter on a valid visa. Currently, when unauthorised boat arrivals are intercepted in Australian waters, the passengers are usually transferred to Christmas Island in order to establish their reasons for attempting to enter Australia without authority. Many are then transferred at a later date to immigration detention centres on the mainland (or immigration detention alternatives such as community based detention).¹¹ Others may be released into the community on bridging visas while their asylum claims are assessed.¹² However, some may be transferred offshore for processing in Nauru or Papua New Guinea (PNG).¹³

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8. For example see UNHCR, *The detention of refugees and asylum-seekers by reason of their unauthorised entry or presence*, Geneva, p. 1, viewed 11 January 2013, <http://www.unhcr.org/refworld/docid/4950f39f2.html>
 9. Refugee Council of Australia (RCOA), 'Myths about refugees and asylum seekers', RCOA website, viewed 11 January 2013, <http://www.refugeecouncil.org.au/f/myth-long.php>
 10. See DIAC, *Seeking asylum within Australia*, fact sheet no. 61, DIAC website, viewed 11 January 2013, <http://www.immi.gov.au/media/fact-sheets/61asylum.htm>
 11. C Bowen (Minister for Immigration and Citizenship), *An update on community detention*, media release, 21 May 2012, viewed 22 January 2013, <http://www.minister.immi.gov.au/media/cb/2012/cb186759.htm>
 12. C Bowen (Minister for Immigration and Citizenship), *Bridging visas to be issued for boat arrivals*, media release, 25 November 2011, viewed 22 January 2013, <http://www.minister.immi.gov.au/media/cb/2011/cb180599.htm>
 13. C Bowen (Minister for Immigration and Citizenship), *Nauru designated for regional processing*, media release, 10 September 2012, viewed 5 February 2013, <http://www.minister.immi.gov.au/media/cb/2012/cb189739.htm> and

Previously, if a government official determined that an individual was raising claims which may engage Australia's protection obligations, the asylum seeker was assessed under the Protection Obligations Determination (POD) process in place at the time on Christmas Island.¹⁴ However, on 25 November 2011, the Minister for Immigration and Citizenship announced the end of a parallel refugee status assessment process for boat arrivals and a return to a single protection visa processing system.¹⁵ Subsequently, in March 2012, a single statutory Protection visa process for both boat and air arrivals came into effect. The onshore arrangements for application and independent review through the Refugee Review Tribunal (RRT) system now apply to all people seeking asylum in Australia, regardless of their mode of arrival.¹⁶

The majority of people arriving unauthorised by boat claim asylum although a few may not (these are usually crew members).¹⁷ The preferred term for boat arrivals as used by the Department of Immigration and Citizenship (DIAC) is 'irregular maritime arrival' or IMA and, as noted above, people arriving by such means who then claim asylum are entitled to do so.

The term 'illegal' may more appropriately apply to those without a valid visa ('unlawful non-citizens') who are not seeking protection, such as visa overstayers.¹⁸ As at 30 June 2011, it was estimated that there were about 58 400 visa overstayers residing in Australia.¹⁹

In Europe, the term 'illegal' is more appropriately used to describe visa overstayers or those working in breach of their visa conditions.²⁰ However, the terms 'illegals', 'irregular migrants' and 'irregular residents' are commonly used interchangeably in Europe and may also refer to those arriving without authorisation. The International Office for Migration (IOM) defines 'irregular migrants' as those who arrive in a country 'undocumented' or those 'who enter the host country legally with tourist documents, but later violate their conditions of entry by taking a job'.²¹

As Europe has much more porous and less geographically isolated borders, it is almost impossible to monitor the exact numbers, but it is estimated that about 500 000 'irregular' migrants or residents

Papua New Guinea designated for regional processing, media release, 9 October 2012, viewed 5 February 2013, <http://www.minister.immi.gov.au/media/cb/2012/cb190599.htm>

14. DIAC, *Processing irregular maritime arrivals*, fact sheet no. 75, DIAC website, viewed 11 January 2013, <http://web.archive.org/web/20111231224633/http://www.immi.gov.au/media/fact-sheets/75processing-irregular-maritime-arrivals.htm> Note: DIAC's IMA processing fact sheets are currently under review.
15. C Bowen (Minister for Immigration and Citizenship), *Bridging visas to be issued for boat arrivals*, media release, 25 November 2011, viewed 11 January 2013, <http://www.minister.immi.gov.au/media/cb/2011/cb180599.htm>
16. C Bowen (Minister for Immigration and Citizenship), *New single protection visa process set to commence*, media release, 19 March 2012, viewed 11 January 2013, <http://www.minister.immi.gov.au/media/cb/2012/cb184344.htm>
17. However, more recently large numbers of Sri Lankan IMAs have been returned without having made asylum claims.
18. DIAC, *Overstayers and other unlawful non-citizens*, fact sheet no. 86, DIAC website, viewed 22 January 2013, <http://www.immi.gov.au/media/fact-sheets/86overstayers-and-other-unlawful-non-citizens.htm>
19. DIAC, *Population Flows 2010–11*, chapter 3, p. 71, DIAC, Canberra, 2012, viewed 11 January 2013, <http://www.immi.gov.au/media/publications/statistics/popflows2010-11/pop-flows-chapter3.pdf>
20. F Duvell, 'Illegal immigration in Europe', Rear Vision, *ABC Radio National*, interview, 10 February 2010, viewed 22 January 2013, <http://www.abc.net.au/rn/rearvision/stories/2010/2808706.htm>
21. IOM, *Towards a fair deal for migrant workers in the global economy*, ILO, Geneva, 2004, p. 11, viewed 22 January 2013, <http://www.ilo.org/public/portugue/region/eurpro/lisbon/pdf/rep-vi.pdf>

(including visa overstayers, people working in breach of their visa conditions and those who go on to claim asylum after arrival) are apprehended each year.²² Unauthorised boat arrivals, some of whom may be asylum seekers, make up only a very small part of the 'irregular' migrants intercepted across Europe.²³

Globally, it is estimated that there are roughly 30 to 40 million unauthorised or 'irregular migrants', comprising around 15 to 20 per cent of the world's immigrant stock.²⁴

Are asylum seekers 'queue jumpers'?

There is a view that asylum seekers, particularly those who arrive in Australia by boat, are 'jumping the queue' and taking the place of a more deserving refugee awaiting resettlement in a refugee camp. The concept of an orderly queue does not accord with the reality of the asylum process. Paul Power, CEO of the Refugee Council of Australia (RCOA) notes that:

Implicit in this view is that Australia should not be bothered by people seeking protection under the Refugee Convention and that genuine refugees should go to other countries and wait patiently in the hope that Australia may choose to resettle them.²⁵

The reality is that only a small proportion of asylum seekers are registered with the UNHCR and only 11 per cent of asylum claims were registered with the UNHCR in 2011.²⁶

Once registered with the UNHCR, many refugees seek resettlement to a country such as Australia. Refugees do not have a right to be resettled, and states are not obliged under the 1951 Refugee Convention or any other instrument to accept refugees for resettlement. It is a voluntary scheme coordinated by the UNHCR which, amongst other things, facilitates burden-sharing amongst signatory states. Resettlement therefore complements and is not a substitute for the provision of protection to people who apply for asylum under the Convention.

According to the UNHCR, **less than 1 per cent** of the world's refugees may be resettled in any given year:

Resettlement benefits a comparatively small number of refugees: in 2011 less than 1 per cent of the world's refugees benefited from this durable solution ... the number of resettlement places offered by States has not significantly increased over the years and has remained at around

22. European Commission, *An opportunity and a challenge: migration in the European Union*, European Union, Brussels, 2009, May 2009, viewed 22 January 2013, http://ec.europa.eu/publications/booklets/move/81/index_en.htm

23. European Parliament, *Asylum study backs shared responsibility between EU countries*, article, 3 March 2010, viewed 22 January 2013, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+IM-PRESS+20100226STO69652+0+DOC+XML+V0//EN>

24. International Council on Human Rights Policy, *Irregular migrant smuggling and human rights: towards coherence*, Geneva, 2010, p. 13, viewed 22 January 2013, http://www.ichrp.org/files/reports/56/122_report_en.pdf

25. P Power, 'Speech to ALP National Conference fringe event: which way forward? Refugee, security and the Asia-Pacific', 31 July 2009, RCOA website, viewed 22 January 2013, http://www.refugeecouncil.org.au/docs/resources/0907_ALP_Fringe.pdf

26. UNHCR, *2011 Global Trends*, op. cit., p. 3.

80 000. Global resettlement needs, assessed at some 800 000, thus exceeded the number of places available by a ratio of 1:10.²⁷

For refugees in protracted situations (in exile for five years or more) the UNHCR points out that there are limited options:

The absence of a solution for millions of refugees in protracted situations continues to pose a major challenge to UNHCR and its partners, to host countries, the refugees themselves and the international community at large.²⁸

At the end of 2011 the UNHCR estimated that almost three quarters of the world's refugee population under UNHCR mandate (more than 7.1 million) was trapped in protracted situations and for whom there was limited hope of finding a solution in the near future.²⁹

Due to an absence of durable solutions for refugees the focus of the UNHCR in most refugee camps is on voluntary repatriation.³⁰ Despite the UNHCR's best efforts, at the end of 2011 25.9 million people, including 10.4 million refugees, were receiving protection or assistance from the UNHCR (many in protracted refugee situations).³¹

Do most asylum seekers arrive by boat?

Until recently, the vast majority of asylum seekers applying for protection in Australia arrived originally by air with a valid visa and then applied for asylum at a later date while living in the community.³² Historically, boat arrivals only made up a small proportion of asylum applicants—estimates vary, but it is likely that between 96 and 99 per cent of asylum applicants arrived by air.³³

More recently the proportions of Irregular Maritime Arrival (IMA) and non-IMA (that is air arrival) asylum seekers have shifted due to the increase in boat arrivals. However, boat arrivals still only comprise about half of Australia's onshore asylum seekers:

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27. Ibid. pp. 17–18; and UNHCR, 'Resettlement', UNHCR webpage, viewed 22 January 2013, <http://www.unhcr.org/pages/4a16b1676.html>
 28. UNHCR, *Global trends 2008*, op. cit., p. 4.
 29. UNHCR, *Global trends 2011*, op. cit., p. 3.
 30. A Millbank, *The problem with the 1951 Refugee Convention*, Parliamentary Library, Canberra, 2000, viewed 22 January 2013, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22library%2Fprspub%2FVSC26%22>
 31. UNHCR, *Global trends 2011*, op. cit., p. 3.
 32. DIAC, *The facts about immigration detention*, media release, 3 July 2009, viewed 28 January 2013, <http://www.newsroom.immi.gov.au/releases/The-Facts-About-Immigration-Detention>
 33. As historical onshore asylum application data does not specify the mode of arrival of each applicant, it is only possible to roughly calculate the proportions. For more detail see J Phillips and H Spinks, *Boat arrivals in Australia since 1976*, Background note, Parliamentary Library, Canberra, 2010, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22library%2Fprspub%2F5P1X6%22> and E Karlsen and J Phillips, *Seeking asylum: Australia's humanitarian program*, Background note, Parliamentary Library, Canberra, 2010, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22library%2Fprspub%2F158141%22>

Onshore asylum applications

Program year	Non-IMA (air arrival) Protection visa (PV) applications lodged		IMA (Irregular Maritime Arrival) refugee status determination requests received		Total
	No	Per cent of total applications	No	Per cent of total applications	
2001-02	7026	76.0	2222	24.0	9248
2002-03	4959	98.8	60	1.2	5019
2003-04	3485	97.6	87	2.4	3572
2004-05	3062	95.4	146	4.6	3208
2005-06	3191	96.9	101	3.1	3292
2006-07	3723	99.4	23	0.6	3746
2007-08	3986	99.5	21	0.5	4007
2008-09	5072	88.0	690	12.0	5762
2009-10	5987	56.6	4591	43.4	10578
2010-11	6316	55.0	5175	45.0	11491
2011-12	7036	48.8	7379	51.2	14415

Sources: DIAC, *Asylum Trends Australia 2010-11 Annual Publication*, Canberra, 2011, p. 2; and *Asylum statistics—Australia*, Quarterly tables, September quarter 2012, Canberra, 2012.

Although the proportion of asylum seekers arriving by boat has increased significantly in the last few years, and boat arrivals continue to be the focus of much public and political attention, they are in fact more likely to be recognised as refugees than those who have arrived by air. For example, the progressive protection visa grant rate for asylum seekers from the top country of citizenship for boat arrivals (Afghanistan) has varied between about 80 and 95 per cent since 2009; while the final protection visa grant rate for those applying for asylum from the top country of citizenship for air arrivals (China) is usually only around 20 to 30 per cent.³⁴

Dr Khalid Koser (Lowy Institute for International Policy) notes that:

The reason this ... point is important is that it means that arguably Australia is worrying about the wrong asylum seekers. Whereas the majority of those arriving by boat are refugees, the majority of those arriving by air are not.³⁵

34. DIAC, *Asylum statistics—Australia*, Quarterly tables, September quarter 2012, Canberra, 2012, pp. 10 and 16–17, viewed 28 January 2013, <http://www.immi.gov.au/media/publications/statistics/asylum/files/asylum-stats-september-quarter-2012.pdf>

35. K Koser, *Responding to boat arrivals in Australia: time for a reality check*, Lowy Institute for International Policy, Sydney, 2010, p. 6, viewed 20 July 2011, <http://www.lowyinstitute.org/Publication.asp?pid=1477>

In the case of Europe, the figures are not as reliable due to its porous borders. While unauthorised arrival figures for Australia are more precise owing to our geography, those for Europe are only estimates. We know how many unauthorised arrivals there are in Australia because we are able to monitor unauthorised boat arrivals in Australian waters and all air arrivals at Australian airports.

It would appear that unauthorised boat arrivals in Europe make up only a very small proportion of the 'irregular migrants' intercepted across Europe each year as most arrive with a valid visa originally and only some of those go on to claim asylum. Even those countries along the European coasts (that naturally receive all the boat arrivals due to their geography) estimate that boat arrivals only make up a small proportion of their 'irregular migrants'—in Italy, for example, only about 15 per cent of 'irregular migrants' arrive by sea. Nevertheless, in 2009 it was estimated that people on board these boats comprised 70 per cent of Italy's asylum seeker arrivals:

The vast majority of asylum seekers arrive in Italy within mixed migratory flows, travelling alongside irregular migrants, including victims of trafficking, through highly dangerous channels managed by smugglers. Whilst some of these arrive by air or by land, some 70 per cent of asylum seekers in Italy are now estimated to arrive by sea.³⁶

Do boat arrivals 'bring disease' and are they a threat to security?

All unauthorised boat arrivals are usually transferred and detained on Christmas Island initially while their reasons for attempting to enter Australia are identified. Comprehensive security and health checks are also carried out:

Unauthorised arrivals, regardless of whether they arrive on the mainland or at an excised offshore place, undergo a comprehensive and thorough assessment process, including security checking, to establish if they have a legitimate reason for staying in Australia. This process includes assessing identities, as many people dispose of all personal papers en route to Australia; assessing whether the person is raising claims which may engage Australia's protection obligations; and obtaining formal police clearances from countries of first asylum in which they have resided for at least 12 months, to confirm they are of good character...

The department has a comprehensive process for checking the health of unauthorised arrivals. An initial health assessment is conducted to identify conditions that will require attention. This assessment includes the collection of personal and medical history, a physical examination and formalised mental health screening and assessment.

Treatment management is coordinated through the department's contracted Health Services Manager for all people who have a clinically identified need for ongoing medical treatment. As well as the initial health assessment there are mechanisms in place to identify health needs that may emerge during a person's time in detention. All unauthorised arrivals can access appropriate health care commensurate with the level of care available to the broader community.

36. UNHCR, *Refugee protection and international migration: a review of UNHCR's operational role in southern Italy*, UNHCR, Geneva, September 2009, pp. 12 and 55, viewed 20 July 2011, <http://www.unhcr.org/4ac35c600.pdf>

A discharge health assessment is completed for each person leaving any immigration detention placement. This assessment includes the provision of a health discharge summary from the Health Services Manager to the individual, which informs future health providers of relevant health history, treatment received during detention and any ongoing treatment regimes. Where appropriate, linkages are made with relevant community health providers to facilitate ongoing care beyond discharge.³⁷

Furthermore, under Australia's migration programs, applicants for any permanent visa are also required to undergo health examinations for permanent entry to Australia. Depending on the individual circumstances, reasons for entering and country of origin, temporary visa applicants may also be required to undergo a health examination.³⁸

Are boat arrivals 'genuine refugees'?

Asylum seekers who arrive by boat are subject to the same assessment criteria as all other asylum applicants. Past figures show that between 70 and 97 per cent of asylum seekers arriving by boat at different times have been found to be refugees and granted protection either in Australia or in another country. For example:

- according to the Refugee Council of Australia, in 1998–99, approximately 97 per cent of Iraqi and 92 per cent of Afghan applicants (the majority of whom would have arrived by boat) were granted refugee status and given permanent protection visas³⁹
- under the 'Pacific Solution' a total of 1637 unauthorised arrivals were detained in the Nauru and Manus facilities between September 2001 and February 2008.⁴⁰ Of those, 1153 (70 per cent) were found to be refugees and ultimately resettled to Australia or other countries⁴¹
- during the Rudd Government approximately 90–95 per cent of assessments completed on Christmas Island resulted in protection visas being granted.⁴² For example, of the 1254 claims assessed on Christmas Island between 1 July 2009 and 31 January 2010, only 110 people were

37. DIAC, *Processing irregular maritime arrivals*, op. cit. Note: DIAC's fact sheets on people smuggling and processing boat arrivals are currently under review.

38. DIAC, *Health requirements for visa applicants*, DIAC webpage, viewed 30 January 2013, <http://www.immi.gov.au/allforms/health-requirements/>

39. RCOA, *Statement on 'illegal' boat arrivals*, RCOA, NSW, 15 November 1999, viewed 31 January 2013, <http://www.refugeecouncil.org.au/docs/resources/ppapers/pp-boatarrivals-nov99.pdf>

40. The 'Pacific Solution' refers to the decision made by the Howard Government in 2001 to excise some of Australia's territory from the migration zone in order to discourage non-citizens from arriving unlawfully in Australian territory by boat. Subsequent boat arrivals intercepted at sea were either returned to Indonesia or removed to third countries in the Pacific (Nauru and Manus Island). These border protection measures become known as the 'Pacific Solution'.

41. C Evans (Minister for Immigration and Citizenship), *Last refugees leave Nauru*, media release, 8 February 2008, viewed 31 January 2013, <http://www.minister.immi.gov.au/media/media-releases/2008/ce08014.htm>

42. DIAC, *Annual Report 2008-09*, DIAC, Canberra, 2009, p. 96, viewed 31 January 2011, <http://www.immi.gov.au/about/reports/annual/2008-09/html/outcome1/output1-2-2-2.htm> Estimates may be calculated from figures provided in the report.

assessed as not being refugees.⁴³ These figures suggest that 1144 (approximately 91 per cent) of those claims were successful.

- under the Refugee Status Assessment (RSA) process previously in place (introduced in July 2008; continued under the Protection Obligations Determination process introduced in March 2011; and continued under the single statutory Protection visa process for boat and air arrivals announced in November 2011), people who arrive unauthorised at an excised offshore place are prevented from lodging a protection visa application until they have had their claims assessed by DIAC.⁴⁴ Of the 2914 RSA assessments completed in 2009–10, 2126 individuals (73 per cent) were found to be refugees and 788 (27 per cent) were found not to be refugees and would not have been able to lodge an application for a protection visa. In 2009–10, 572 requests for review of their primary negative RSA outcome (Independent Merits Review) were received and 184 completed. Of those completed 81 (44 per cent) were found to be refugees.⁴⁵
- the final protection visa grant rate for 2009–10 for people from Afghanistan (the majority of whom would have arrived by boat) was 99.7 per cent (this figure does not include those boat arrivals with a negative RSA outcome who would not have been able to lodge an application for a protection visa). Grant rates to people from Iraq, Iran and Burma, many of whom would also have arrived by boat, were also high, ranging from 96 to 98 per cent.⁴⁶

43. Senate Legal and Constitutional Affairs Committee, Answers to questions on notice, Immigration portfolio, Additional Budget Estimates, 9 February 2010, Questions 30 and 32, viewed 31 January 2013,

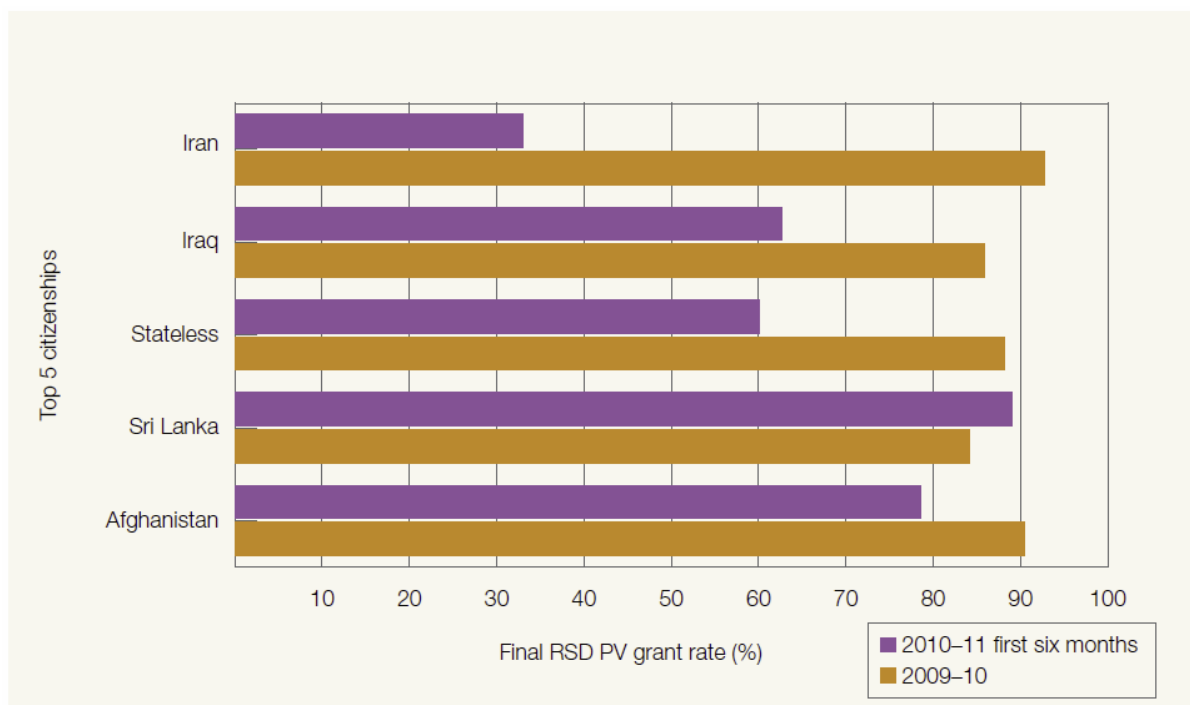
http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=legcon_ctte/estimates/add_0910/diac/index.htm

44. DIAC, *Implementation of a single process for Irregular Maritime Arrivals*, DIAC website, viewed 31 January 2013, http://www.immi.gov.au/visas/humanitarian/_pdf/implementation_single_process_ima.pdf

45. DIAC, *Annual report 2009–10*, DIAC, Canberra, 2010, p. 119, viewed 31 January 2013, <http://www.immi.gov.au/about/reports/annual/2009-10/> For further statistics on grant rates see DIAC, *Asylum statistics*, DIAC website, viewed 31 January 2013, <http://www.immi.gov.au/media/publications/statistics/asylum/>

46. *Ibid.*, p. 113.

Final RSD Protection visa grant rates for Irregular Maritime Arrivals: top 5 citizenships



Source: DIAC, *Asylum statistics 2010-11 (first six months)*, Canberra, 2011, p. 38.

Progressive protection visa grant rates for boat arrivals from Afghanistan (the top country of citizenship for IMAs) continue to be high with rates of 83 to 95 per cent since 2009-10:⁴⁷

Status of IMAs as at 26.11.12	Citizenship	Number of IMAs	Primary grants	Primary refusals	Primary grant rate	Final grants	Final refusals	Progressive grant rate	% of IMAs finalised
2009-10 arrivals	Afghanistan	2999	1626	1371	54.3%	2847	152	95.0%	100.0%
2010-11 arrivals	Afghanistan	1261	745	511	59.3%	1190	28	94.7%	96.6%
2011-12 arrivals	Afghanistan	3359	1770	469	79.1%	1872	26	83.6%	56.5%

Source: DIAC, [Asylum statistics-Australia](#), Quarterly tables, September quarter 2012, Canberra, 2012, pp. 16-17.

In contrast, asylum claims from people who enter Australia by air on a valid visa and subsequently apply for asylum have not had such high success rates historically and the majority have not been found to be refugees. This is demonstrated by the lower protection visa grant rates for non-IMAs (air arrivals) of around 40 per cent annually. The average final (primary and review) grant rate for non-

47. Note: the number of IMAs is based on people who arrived in the period and who were screened into a refugee status determination process.

IMAs for 2011–12 was 44.0 per cent.⁴⁸ The grant rate for asylum applicants from China (the top country of citizenship for non-IMAs) was even lower at 26.9 per cent.⁴⁹

In other words, past figures show that more asylum seekers who arrived by boat have been recognised as refugees than those who entered Australia by air.

Do boat arrivals ‘take all Australia’s refugee places’?

Successful onshore applicants (boat and air arrivals) usually only make up a relatively small proportion of the total number of refugees and other humanitarian entrants accepted by Australia each year—usually in the region of 17 to 20 per cent. In 2000–01 and again more recently, the proportions have been higher due to an increase in the number of boat arrivals. However, onshore grants to boat and air arrivals combined still only comprise about 50 per cent of Australia’s Humanitarian Program grants.

Over the last ten years, approximately 13 000 places have been granted under Australia’s Humanitarian Program each year with fluctuating levels of onshore visa recipients:

- due to an increase in boat arrivals, 40.6 per cent of the 13 733 Humanitarian Program grants in 2000–01 were to onshore applicants (boat and air arrivals).⁵⁰
- only 19 per cent of the 13 507 humanitarian grants in 2008–09 and 17 per cent of the 13 014 visas granted in 2007–08 were protection visas granted under the onshore component.⁵¹
- due to another increase in boat arrivals, 32.9 per cent of the 13 770 grants in 2009–10 were to onshore applicants (boat and air arrivals).⁵²
- with increases in both air and boat arrivals more recently the proportions have shifted further—in 2011–12, 51 per cent of the 13 759 grants were to onshore IMA and non-IMA applicants.⁵³

However, with the Government’s announcement that Australia’s Humanitarian Program places would rise to 20 000 for 2012–13, the proportion of onshore versus offshore visa grants are set to

48. DIAC, *Asylum statistics*, September Quarter 2012, pp. 9–10, op. cit. and UNHCR, *Statistical yearbooks*, UNHCR, Geneva, (various years), viewed 30 January 2013, <http://www.unhcr.org/pages/4a02afce6.html>

49. Ibid.

50. Department of Immigration and Multicultural and Indigenous Affairs (DIMIA), *Immigration snapshot 2003–04*, DIAC website, viewed 30 January 2013, <http://www.immi.gov.au/media/publications/statistics/immi-snapshot/immisnapshot-v1.pdf>

51. C Evans (Minister for Immigration and Citizenship), *Australia delivers on refugee commitments*, media release, Canberra, 1 September 2009, viewed 30 January 2013, <http://www.minister.immi.gov.au/media/media-releases/2009/ce09079.htm> DIAC, *Australia’s refugee and humanitarian program*, fact sheet no. 60, DIAC website, viewed 30 January 2013, <http://www.immi.gov.au/media/fact-sheets/60refugee.htm> and DIAC, *Population Flows 2007–08*, DIAC, Canberra, 2009, chapter 4, p. 67, viewed 30 January 2013, <http://www.immi.gov.au/media/publications/statistics/popflows2007-08/>

52. DIAC, *Annual report 2009–10*, op. cit., p. 104.

53. DIAC, *Annual report 2011–12*, DIAC, Canberra, 2012, p. 111; and DIAC, *Asylum statistics*, September quarter, op. cit.

shift again.⁵⁴ As the increase to the Program was not for onshore humanitarian entrants, but for offshore refugees (mostly referred by the UNHCR) from the Middle East, Africa and Asia, it is likely that the majority of refugees accepted by Australia in the near future will again be offshore, not onshore visa recipients.⁵⁵

Do refugees receive higher welfare benefits than Australians?

The following material has been reproduced from L Buckmaster, *Australian Government assistance to refugees: fact v fiction*, Background note, Parliamentary Library, Canberra, 2012.

Refugees

In recent years, a series of emails have been widely circulated throughout Australia claiming to describe higher social security entitlements for refugees, compared with those of other Australian residents. A common claim in these emails is that refugees in Australia receive higher social security benefits than age pensioners.

There is no truth to claims that refugees are entitled to higher benefits than other social security recipients. Refugees have the same entitlements as all other permanent residents—they do not receive special refugee payments or special rates of payment.

Given the circumstances in which refugees come to settle in Australia, they are exempt from the standard waiting period that applies to migrants seeking to access social security payments or concession cards. They also receive short-term assistance from DIAC aimed at helping them settle effectively.

Asylum seekers

DIAC also provides funding to assist asylum seekers living in the community (on bridging visas) or in community detention through Non-Government Organisations (NGOs) such as the Australian Red Cross.

For eligible asylum seekers in the community on bridging visas, financial assistance may be available under the Asylum Seeker Assistance (ASA) Scheme. The ASA Scheme is administered by the Australian Red Cross under contract to DIAC. Assistance is paid at the rate of 89 per cent of the DHS Special Benefit—a payment made to those in severe financial need due to circumstances outside their control and who are not eligible to receive any other DHS pension or benefit. Asylum seekers on bridging visas may also be eligible for rent assistance in the form of 89 per cent of DHS Rent Assistance. The Community Assistance Support (CAS) program provides similar support to people on

54. C Bowen (Minister for Immigration and Citizenship), *Refugee program increased to 20 000*, media release, 23 August 2013, viewed 5 February 2013, <http://www.minister.immi.gov.au/media/cb/2012/cb189459.htm>

55. C Bowen (Minister for Immigration and Citizenship), *Priority regions announced for refugee intake boost*, media release, 26 October 2012, viewed 5 February 2013, <http://www.minister.immi.gov.au/media/cb/2012/cb191007.htm>

bridging visas as the ASA Scheme, but is designed for people with particular needs and vulnerabilities.

DIAC also provides funding to NGOs (primarily the Australian Red Cross) aimed at ensuring that people placed in community detention are appropriately supported while their asylum claims are processed. NGOs are funded to source appropriate housing, to provide payment of living expenses, and to ensure access to relevant health and community services and social support networks. Previously, as with the ASA Scheme, income support through the Community Detention Program was provided by the Australian Red Cross at the level of 89 per cent of DHS Special Benefit. However, this has since been reduced to 70 per cent of Special Benefit (\$344.82) to reflect the fact that people in community detention have their rent paid for them.

Under an income allowance program, asylum seekers in closed immigration detention centres are allocated points that can be exchanged for small items at the facility shop (similar to a small allowance), but do not receive DHS equivalent payments.⁵⁶

Is Australia being ‘swamped by boat arrivals’?

Concerns in Australia over ‘unauthorised boat’ or ‘irregular maritime’ arrivals (commonly referred to as ‘boat people’) have occupied successive governments since the first wave of boats arrived carrying people seeking asylum from the aftermath of the Vietnam War in 1976.⁵⁷ However, in terms of migration to Australia generally, boat arrivals have always been a very small cohort:

...in the context of our migration program, the number of asylum seekers arriving by boat to Australia is very, very minor. It is less than 1.5 per cent of new migrants.⁵⁸

Although there has been a significant increase in boat arrivals in recent years (approximately 17 000 in 2012), comparisons show that the number of boat arrivals in Australia is small when compared to the flows of unauthorised arrivals in other parts of the world. For example, it is estimated that in 2006 over 72 000 persons and in 2007 over 51 000 persons arrived by boat on the coasts of Italy, Spain, Greece and Malta.⁵⁹ In 2011 there were 61 000 boat arrivals in Italy alone.⁶⁰

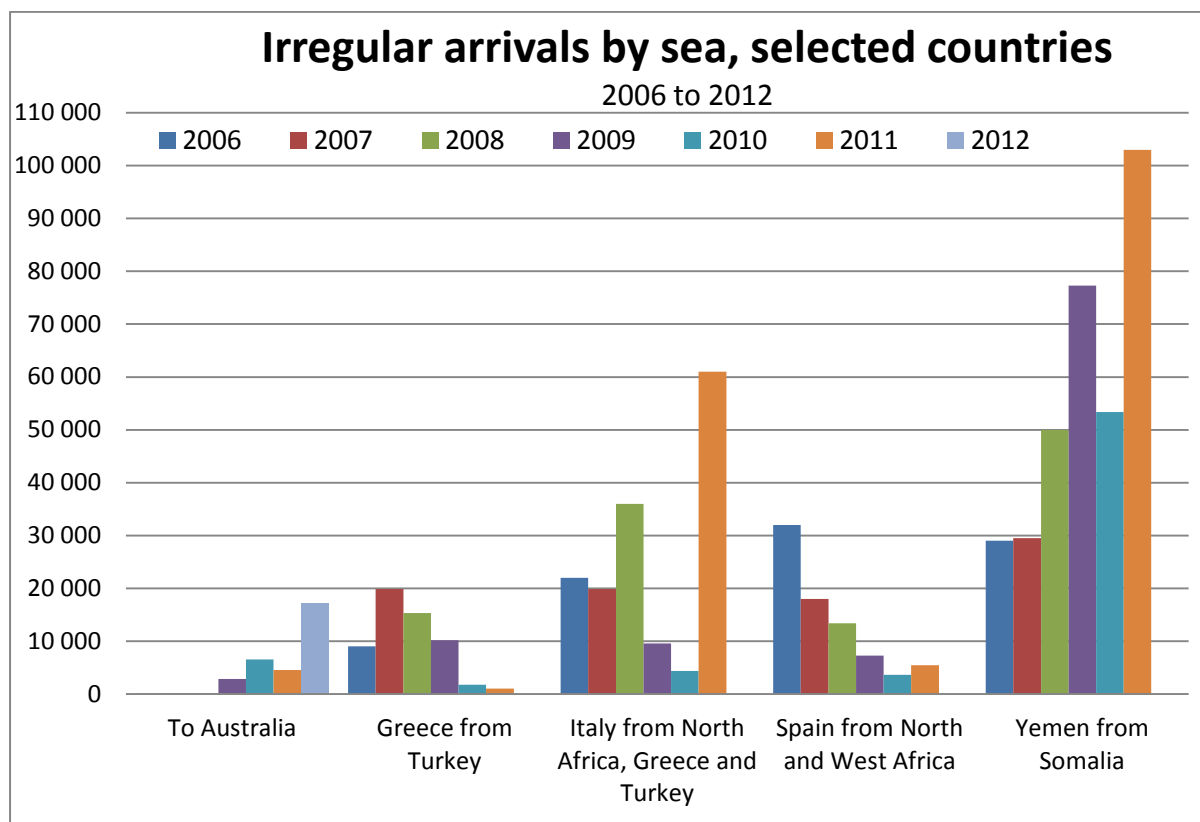
56. Source: reproduced from L Buckmaster, *Australian Government assistance to refugees: fact v fiction*, Background note, Parliamentary Library, Canberra, 2012, viewed 5 February 2013, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22library%2Fprspub%2F3WCV6%22>

57. See J Phillips and H Spinks, *Boat arrivals in Australia since 1976*, op. cit.

58. J Gillard (Prime Minister), ‘Moving Australia forward: address to the Lowy Institute’, op. cit.

59. Council of Europe, *Europe’s ‘boat-people’ mixed migration flows by sea into southern Europe*, UNHCR webpage, 11 July 2008, viewed 31 January 2013, <http://www.unhcr.org/refworld/pdfid/487c61f616.pdf> For more information see, UNHCR, *Irregular migration by sea: frequently asked questions*, UNHCR website, 28 May 2009, viewed 31 January 2013, <http://www.unhcr.org/4a1e48f66.html>

60. UNHCR, *All in the same boat: the challenges of mixed migration*, UNHCR website, viewed 31 January 2013, <http://www.unhcr.org/pages/4a1d406060.html>



Parliamentary Library, data source: UNHCR, [All in the same boat: the challenges of mixed migration](#), UNHCR website.⁶¹

In the previous peak boat arrival years of the 1970s (when just over 2000 people arrived by boat in Australia over a five year period) and 1999–2001 (when around 12 000 people arrived by boat over a three year period) the arrival numbers in Australia were also small compared to other destination countries.⁶²

Is Australia being ‘swamped with asylum claims’?

The UNHCR summarises trends in the number of individual asylum claims submitted in 44 industrialised countries in Europe and selected non-European countries each year. In 2011 these countries received an estimated 441 300 asylum applications—the highest level since 2003.⁶³

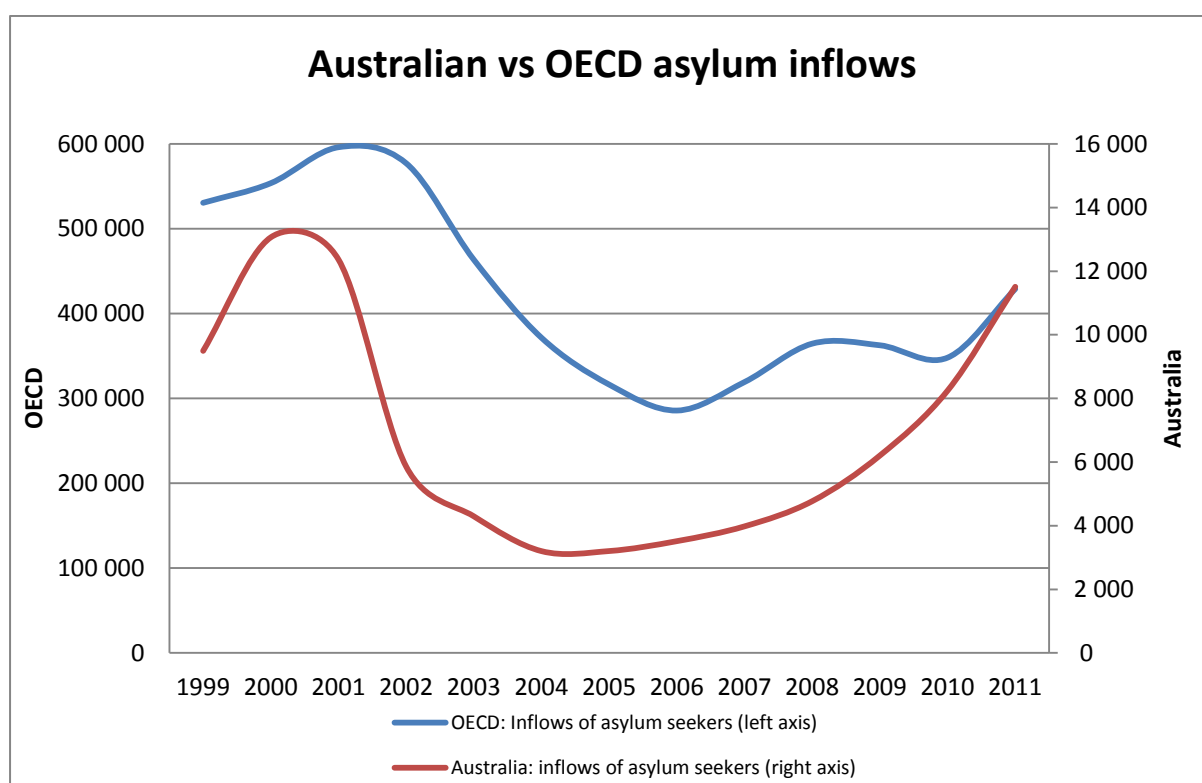
61. **Note:** decreases in arrivals in countries such as Italy and Spain in 2009 and 2010 were affected by Italy’s ‘push back policy’ whereby Libya was provided with Italian Government funding to intercept and forcibly return boats to Libya. Irregular arrival figures rose again in the region in 2011 due to the internal crisis in Libya and the subsequent collapse of these arrangements.
62. See for example the arrivals in Italy over time in UNHCR, *Refugee protection and international migration: a review of UNHCR’s operational role in southern Italy*, September 2009, p. 12, viewed 31 January 2013, <http://www.unhcr.org/4ac35c600.pdf>
63. UNHCR, *Asylum levels and trends in industrialized countries 2011*, UNHCR, Geneva, 2012, p. 2, viewed 31 January 2013, <http://www.unhcr.org/4e9beaa19.html>

Around the world most asylum claims are lodged in Europe, the USA and Canada—in fact more asylum claims are lodged in Europe (particularly in France and Germany) than in any other part of the world.⁶⁴ Asylum claims in Europe have remained fairly stable over the last few years (although there was a 19 per cent jump in 2011) with 327 200 asylum claims in 2011, 269 900 in 2010, 286 700 in 2009; 283 700 in 2008; and 249 600 in 2007.⁶⁵

In 2011, the largest number of asylum claims for an industrialised country was experienced by the USA with 74 000 claims, followed by France with 51 900, Germany 45 700 and Italy with 34 100 claims.⁶⁶

In comparison, a relatively small number—11 500 claims—were lodged in Australia in 2011.⁶⁷

Although Australia's global share of asylum applications is small compared to many other OECD countries, in terms of fluctuations in applications the trends since 1999 reflect similar patterns:



Parliamentary Library, data source: OECD, *International Migration Outlook 2012*, A.1. Stocks and flows of immigrants, Table A.1.3, [Inflows of asylum seekers](#), OECD website.

64. Ibid.

65. Ibid., p. 7 (and various other years of *Asylum trends*).

66. Ibid., p. 9.

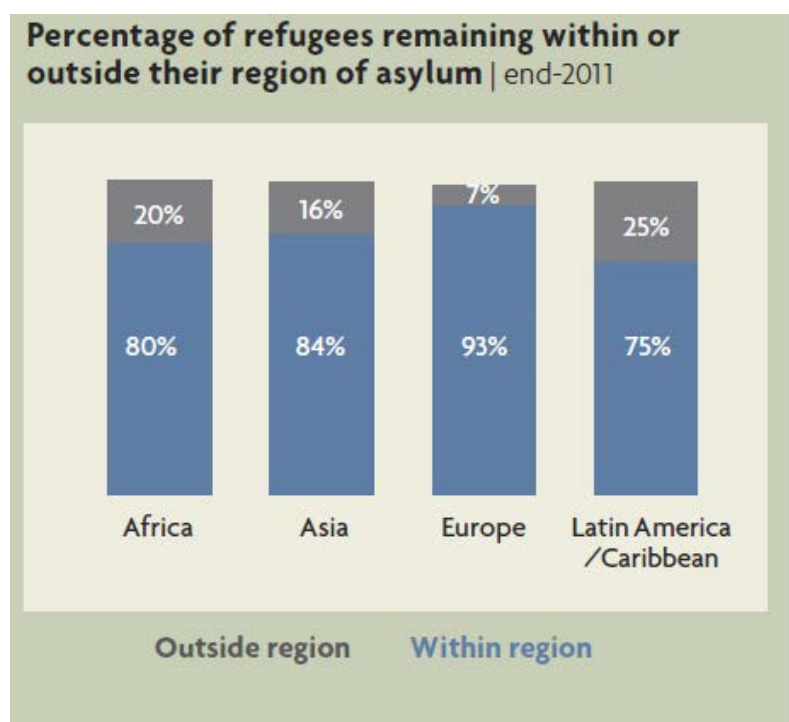
67. Ibid., p. 8.

Do developed countries bear the burden of hosting asylum seekers and refugees?

It is true that Australia is one of only about 20 nations worldwide that participate formally in the UNHCR's resettlement program and accepts quotas of refugees on an annual basis.⁶⁸ In 2011, under this program, Australia accepted the third largest number of refugees (includes refugees and other humanitarian entrants) for resettlement in the world (9200) after the USA (51 500) and Canada (12 900).⁶⁹

However, in terms of the total number of 'people of concern' globally, the UNHCR's resettlement program currently contributes to resettling only a small proportion of the world's refugees—less than 1 per cent of the world's refugees are resettled under this program.⁷⁰ About 75 to 90 per cent of refugees remain in their region of origin placing the burden on neighbouring countries:

Available statistical evidence demonstrates that most refugees having fled to neighbouring countries remain in the same region. The major refugee-generating regions hosted on average between 75 and 93 per cent of refugees from within the same region. UNHCR estimates that some 1.8 million refugees (17 per cent of the total of 10.4 million) live outside their region of origin.⁷¹



Source: UNHCR, [Global trends 2011](#), op. cit., p.11.

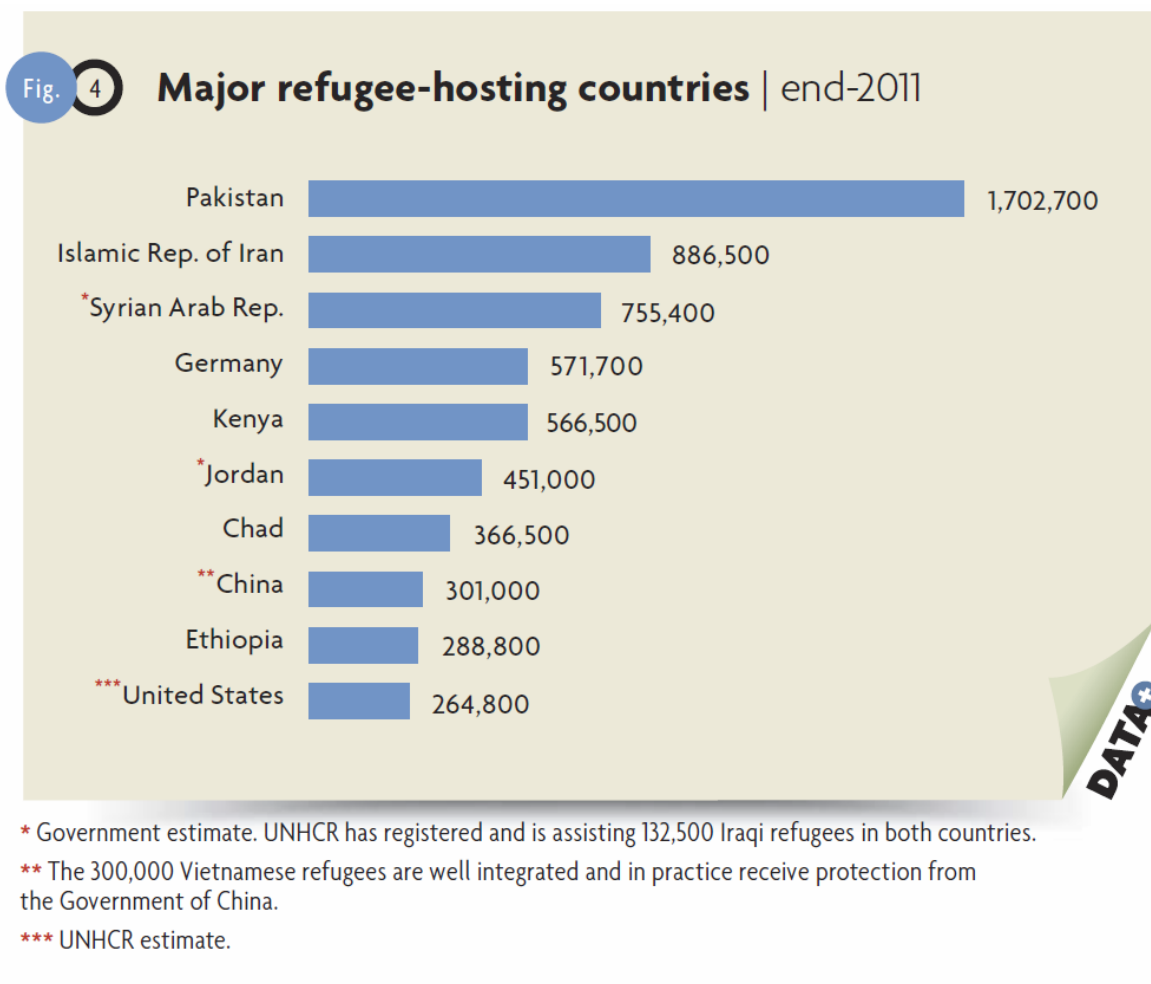
68. J Phillips and H Spinks, op. cit.

69. UNHCR, [Global trends 2011](#), op. cit., p. 19.

70. Ibid., p. 17.

71. Ibid., p.11.

The vast majority of asylum seekers and refugees are hosted in developing countries, so the burden of assisting the world's asylum seekers and refugees actually falls to some of the world's poorest countries. UNHCR's latest available data shows that Pakistan is host to the largest number of refugees worldwide, followed by Iran and Syria. In 2011 Pakistan also hosted the largest number of refugees relative to its economic base (605 refugees per 1 USD GDP per capita), followed by the Congo and Kenya.⁷²



Source: UNHCR, [Global trends 2011](#), op. cit., p. 15.

72. Ibid., pp. 3 and 14.

Summary

- Australia has a long history of accepting refugees for resettlement and over 750 000 refugees and displaced persons have settled in Australia since 1945.
- There is a difference between an asylum seeker and a refugee— asylum seekers are people seeking international protection but whose claims for refugee status have not yet been determined. Although those who come to Australia by boat seeking Australia’s protection are classified by Australian law to be ‘unlawful non-citizens’, they have a right to seek asylum under international law and not be penalised for their ‘illegal’ entry.
- Up until 2009 only a small proportion of asylum applicants in Australia arrived by boat—most arrived by air with a valid visa and then went on to pursue asylum claims. While the number of boat arrivals has risen substantially in recent years, it is worth noting that they still comprise just over half of onshore asylum seekers in Australia and a greater proportion of those arriving by boat are recognised as refugees.
- There is no orderly queue for asylum seekers to join. Only a very small proportion of asylum seekers are registered with the UNHCR and only one per cent of those recognised by the UNHCR as refugees who meet the resettlement criteria are subsequently resettled to another country. As the overall number of asylum applications has continued to rise, states are increasingly taking responsibility for refugee status determination.
- All unauthorised boat arrivals in Australia are subject to the same assessment criteria as other asylum applicants and also are subject to comprehensive security and health checks.
- Claims that refugees in Australia are entitled to higher benefits than other social security recipients are unfounded.
- In recent years, the Australian Government has allocated around 13 000 places to refugees and others with humanitarian needs under its planned Humanitarian Program.⁷³ Historically, most of these places have been given to offshore refugees referred to Australia by the UNHCR, but some are given to refugees who applied for asylum onshore. Currently, just over 50 per cent of Australia’s humanitarian program visas are granted to onshore asylum seekers (both air and boat arrivals).
- The number of people arriving unauthorised by boat in Australia, is small in comparison to the numbers arriving in other parts of the world such as Europe. Similarly, the number of asylum claims lodged in Australia is small in comparison to the USA, Canada and Europe.

73. DIAC, *Australia’s refugee and humanitarian program*, op. cit.

- While only about 20 developed nations, including Australia, participate formally in the UNHCR's refugee resettlement program, the vast majority of asylum seekers and refugees are hosted in developing countries.

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