**2 June 2011**

**Pacific Solution not perfect, but better than current regime**

When I became Australia's Human Rights Commissioner in 2000 Australia's immigration facilities were bursting at the seams with unauthorised asylum seekers. In response to the crisis the Howard government established the Pacific Solution in 2001 to stem the flow of boats. The policy drew sharp criticism from human rights advocates, but the undeniable fact is that it reduced the number of unauthorised arrivals and minimised the number of people who were subsequently placed in detention. Considering the current influx of boats and the unprecedented number of asylum seekers in mandatory detention, it’s time we consider a return to this policy. The Pacific Solution was far from perfect, but compared to the Malaysian solution it’s easily the lesser of two evils.

There are almost twice as many asylum seekers in detention compared to the maximum amount under the Howard government. Make no mistake, they are coming to Australia because the current policy has created significant pull factors. Labor's announcement it would speed up visa processing was essentially an invitation for people smugglers to target Australia. It’s incredible to think that at a time the worldwide number of refugees is decreasing, the demand for asylum in Australia has actually gone up.

Australians are demanding action from the Gillard government to address this problem. Australians are historically uneasy about people arriving to the country on boats, and any moves to make the system more humane by allowing asylum seekers to live in the community while their claims are processed won’t be publically supported at this point in time. Yet something must be done, as its clear that mandatory detention itself is not a deterrent any more. This is what is panicking the government, and this is why it has created the Malaysian solution, where we take 4,000 refugees in exchange for 800 asylum seekers. The Malaysian solution is the culmination of four years of bad policy. It represents both sides of what I call the misery coin; weak borders that create pull factors, and the growing trauma this creates in detention centres.

In this context I welcome **the Parliamentary inquiry into Australia's immigration detention network.** The joint select committee that was announced yesterday plans to examine recent riots and disturbances in detention centres on Christmas Island and at Villawood in Sydney, and how commonwealth agencies are intercepting, detaining and processing "irregular maritime arrivals or other persons". This is welcome news, but in my opinion it does not go far enough. The people of Australia have a right to know the full details of the Malaysian solution, and to this end it’s vital the inquiry’s terms of reference are expanded to include the fine detail of the government’s new plan.

A key difference between the Pacific Solution and the Gillard governments Malaysian Solution is oversight. Under the Pacific Solution, Australia could control the conditions in the detention centres. Australia had direct influence on what the detainees ate, where they slept, and the medical care they received. Under the Malaysian deal we have no say in such things. Amnesty International has recently confirmed that conditions in the Malaysian detention centres are much worse than they were on Nauru and Manus Island. Anyone unlucky enough to end up in the notorious Lenggeng detention centre will have to contend with canings, diseases spread by rat urine, and tiny cells without bedding. There is little chance the Malaysian authorities will be working to resettle the asylum seekers that end up there, whereas the Pacific Solution saw Australian immigration officials making consistent efforts to find asylum seekers a permanent place of residence.

The irony of the current situation in our detention centres is that Labor was aiming for a more human asylum seeker policy, but ended up making the problem worse. By weakening our borders, Labor has overseen a dramatic increase in people who will face trauma and mental disintegration during detention. We now have almost 7,000 people in our centres, and the budget estimates over 2011 -12 suggest that most of them will remain in detention for some time to come.

When you take all this together, it’s obvious that Australia’s asylum seeker policies over the past four years have failed. Labor tried to humanise the system by dismantling the Pacific Solution, but they only succeeded in creating pull factors for asylum seekers and subsequently more pain for more people in detention. If the government had wanted to be truly humane, it would have removed mandatory detention when it dismantled the Pacific Solution. Instead, it calculated that mandatory detention alone would be a good deterrent, but we know now this is not the case. The Immigration Department says there is early evidence the Malaysian solution will put off new voyages, but there is also plenty of evidence that asylum seekers currently under our care will face brutal conditions in Malaysia. The Opposition **Immigration spokesman Scott Morrison has even likened the treatment of asylum seekers in Malaysia to the treatment of Australian cattle in Indonesia.**

This is not good enough. We need a strong border protection system, and we need to be humane to the people who are already in the system. In light of this, I think it is time we reconsidered the Pacific Solution.