



darfur australia network

Darfur Australia Network (DAN)

**Submission to the Hon Kevin Andrews 2007
2007-2008 HUMANITARIAN PROGRAMME**

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List of Recommendations

Recommendation 1 The Department of Immigration and Citizenship take steps to extend the Refugee Visa subclass 201 (In-Country Special Humanitarian) to respond to the compelling claims of IDPs from Darfur for permanent protection in Australia.

Recommendation 2 The Department of Immigration and Citizenship take steps to extend the Refugee Visa subclass 204 (Woman at Risk) to operate, where appropriate, beyond the recommendation of the UNHCR in order to include female IDPs and their families.

Recommendation 3 That the Department of Immigration and Citizenship monitor and support the UNHCR in Cairo and Chad in order to develop and maintain on-the-ground knowledge of the specific situation of those Sudanese displaced by the conflict in Darfur.

Recommendation 5 The Department of Immigration and Citizenship take steps to extend the Refugee Visa subclass 203 (Emergency Response) to respond to those who are considered *prima facie* refugees but who exist outside the UNHCRs mandate and geographically remote and unable to access any immediate or enduring system of protection.

Recommendation 4 That the Department of Immigration and Citizenship continue to place emphasis on UNHCR's recommendations for refugee resettlement. DAN recommends, however, that greater flexibility is incorporated into the Humanitarian Programme. This can be achieved by extending the appropriate Visa subclasses to include refugees and IDPs that are either unable to access UNHCR assessment services, or geographically remote from UNHCR protection mechanisms. This extension of the Humanitarian Program will allow the Australian Governments humanitarian response to target those in greatest need and who would otherwise be excluded entirely from the international system of protection.

Recommendation 6 That the Department of Immigration and Citizenship use the SHP to assess and appropriately resettle those from Darfur with legitimate refugee-like claims who are unable to access the resettlement recommendation scheme or RSD due to the insufficient operational capacity of the UNHCR.

Recommendation 7 The SHP should prioritise applicants in areas where the UNHCR lacks operational capacity or jurisdiction.

Recommendation 8 That the Department of Immigration and Citizenship, where possible, use the SHP proposer requirement to effectively differentiate between those displaced by the Darfuri conflict and those from other parts of Sudan.

Recommendation 9 That the Department of Immigration and Citizenship significantly increase funding for the Settlement Grants Programme in 2007/08 to increase the preparedness of local communities in urban and regional areas to support and welcome emerging refugee communities.

About Darfur Australia Network

The Darfur Australia Network (DAN) is a not-for-profit, independent community organisation run by members of Australia's emerging Darfur community and concerned Australian volunteers. DAN's vision is for sustainable peace, justice and reconciliation in Darfur, and the protection of Darfuri people, regardless of circumstance, from human rights abuse. DAN is committed to advocating the 'responsibility to protect' principle and aims to do this by raising awareness of and advocating, alongside the Darfur community, for appropriate international and domestic policy approaches to ending the crisis. DAN further aims to protect Darfuri people from human rights abuse by helping to resettle Darfuri refugees in Australia through the provision of legal, administrative, essential services and community support.

DAN Activities

DAN engages in a range of activities including;

- Capacity building activities with the Darfur community
- Public education through events and information dissemination
- Special Humanitarian Program applicant and proposer support

These activities have given DAN volunteers intimate knowledge about the experiences and circumstances of Darfuri refugees and their families, fellow countrymen and women in Australia and abroad. This submission draws on the knowledge DAN has gained through working with Darfuri refugees; people who have suffered great oppression and abuse yet have remained resilient and dedicated to helping and supporting refugees worldwide. The experiences faced by the Darfuri refugees who have informed this submission are indicative of a range of other refugee communities who have and will resettle in Australia. We hope the positions put in this submission will be able to inform and reshape Humanitarian Programme in 2007-08 to the benefit of present and future resettled refugees.

Current situation for IDPs and refugees from Darfur, Sudan

Since the signing of the poorly negotiated Darfur Peace Agreement (DPA) in May 2006, there has been a dramatic increase of violence, sexual abuse and displacement in and around Darfur.

The number of civilians displaced by the conflict and resultant humanitarian crisis in Darfur since 2003 is widely reported as over 2 million people, with 700,000 Internally Displaced Peoples (IDPs) in West Darfur alone.¹ However, these figures are grossly under-representative and have not altered dramatically since early 2006 despite escalation of the conflict.

The UN Under-Secretary General for Humanitarian Affairs, Jan Egeland reported in November 2006 that there were 4 million Darfuri people dependent on limited

¹ Jennifer Pagonis, "UNHCR launches appeal for internally displaced Sudanese and Chadian refugees in West Darfur". 30 January 2007. See <http://www.unhcr.org/news/NEWS/45bf309d16.html>

humanitarian assistance and food aid provided by relief agencies.² DAN and the Darfur Community Association of Australia note that the actual number of displaced peoples is closer to this figure as those dependant on food aid have generally lost their livelihoods due to displacement. At 4 million people this represents approximately two thirds of the Darfuri population.

In January 2007 the UNHCR, in launching an appeal for internally displaced Darfuri people and refugees, noted that;

*“With constant fighting between government troops and rebels opposed to the DPA, as well as regular attacks by Arab militia on African tribes, there is no prospect of return for internally displaced people in Darfur, nor for the more than 200,000 Sudanese refugees hosted in eastern Chad...The ongoing conflict and prevailing insecurity in Darfur are the main challenges for internally displaced persons and refugees as well as for all humanitarian actors”.*³

As a consequence of this situation Darfur has been labelled widely and consistently as the site of the world’s worst humanitarian crisis since it was described as such by UN officials in 2004.⁴ Since the outbreak of violence in 2003, more than 400,000 people have been killed.⁵ The combinations of general insecurity, systematic politically and racially targeted violence and the humanitarian disaster make the claims of Darfuri refugees and IDPs for protection and, where appropriate, resettlement in third countries highly compelling.

Question 1: How can the Humanitarian Programme best target those in greatest need of resettlement?

It is quite notable that of the high number of Sudanese refugees accepted into Australia’s humanitarian resettlement programme, so few are from Darfur. Furthermore it is noteworthy that of the Darfuri refugees who are being protected in Australia, almost all have made it through the Special Humanitarian Programme (SHP), rather than the Refugee component of the Offshore Humanitarian Programme.

Indeed, the great majority of Sudanese refugees accepted by Australia continue to be from South Sudan, despite the fact that civil war in Sudan’s South has officially ended. According to UNHCR more than 100,000 Sudanese refugees have returned home since the launch of voluntary repatriation in 2005, and another 100,000 are expected to repatriate from neighbouring countries in 2007.⁶ While the situation in South Sudan demands close monitoring and attention, the Comprehensive Peace Agreement has successfully managed to lift South Sudan out of civil war with the north and towards fragile peace in post-war reconstruction. In contrast, the war in Darfur rages still.

While South Sudanese refugees clearly have continuing resettlement needs, it is compelling to contrast this situation to that faced by Darfuri refugees and IDPs. Unlike their Southern counterparts, very few Darfuri’s have been able to seek the protection of

² UN News Centre, “4 million people in Darfur now need humanitarian aid, top UN relief official says”. 20 November 2006. See www.un.org/news/story.asp?NewsID=20568&Cr=Sudan&Cr1

³ Jennifer Pagonis, As above.

⁴ “Genocide survivors urges EU sanctions over Darfur”. *Reuters*, 20 October 2006.

⁵ UN News Centre, “Annan welcomes extension of African Union mission in Darfur”. 21 September 2006. See www.un.org/apps/news/story.asp?NewsID=19948&Cr=sudan&Cr1=

⁶ UNHCR Briefing Notes. “South Sudan: 100,000 have now returned”. 30 January 2007. See <http://www.unhcr.org/news/NEWS/45bf309eb.html>

resettlement in Australia. If the humanitarian programme is intended to target those in greatest need of resettlement, it is logical to expect that refugees from the world's worst humanitarian crisis would be heavily represented in the programme's intake. Yet this situation indicates this is not the case.

We feel this represents an anomaly in the way Australia targets those in greatest need of resettlement. In order to flesh out this anomaly and propose ways to address it, we will here examine some reasons why the intake of Darfuri's has been so low. One of the central reasons for the low Darfuri resettlement numbers in Australia is that IDPs are mostly ineligible for Australia's humanitarian programme except for the rarely used Visa subclass 201 (In-country Special Humanitarian). Secondly, most countries where Darfuri refugees have fled to do not have adequate Refugee Status Determination (RSD) and resettlement need assessment processes. These issues will be addressed here separately.

Ineligibility of IDPs

At present Australia's Humanitarian Programme focuses on refugees – that is, peoples suffering a well founded fear of persecution (owing to their race, religion, political opinion, membership of a social group or nationality), who have fled to a country of asylum. As such refugees must be outside their country of persecution to meet the eligibility requirements for the Humanitarian Programme.

DAN advocates that this circumstance unfairly fails to recognise the compelling claims of peoples who are suffering a well founded fear of persecution, but have been precluded from fleeing to a country of asylum, instead remaining displaced in IDP camps and dwellings.

There is evidence to suggest that IDPs often face even greater protection threats than refugees. In addition to being ineligible for many of the protective measures available to refugees, they are trapped in their country of persecution and remain vulnerable to attack. In the case of Darfur, the forces supposedly charged with the protection of civilians are the known agents of displacement; government backed militia groups (known as the *Janjaweed*) supported by the Sudanese Armed Forces. Without the protection of international refugee and humanitarian law, and without adequate or effective peacekeeping forces in the region, IDPs are extremely vulnerable to militia and government attack.

This is exemplified by the high frequency of rape and sexual assault of female IDPs in Darfur when they leave the safety of the camps. Statistics indicating the frequency of such attacks are unavailable and the majority of attacks go unreported due to a fear of punishment⁷. However, in August 2006, the International Rescue Committee documented that in the five weeks prior to the release of the report, over 200 cases of sexual assault and an additional 200 cases of physical attacks were reported outside Darfur's largest displaced persons camp alone.⁸

For the Australian Humanitarian Programme to effectively target those in greatest need of resettlement it is essential to consider the compelling claims of IDPs. The exclusion of

⁷ Amnesty International, *Sudan, Darfur: Rape as a weapon of War: Sexual Violence and its Consequences*, Amnesty International, London, 2004.

⁸ International Rescue Committee, "Increased sexual assaults signal Darfur's downward spiral" 23 August 2006, <<http://www.theirc.org/news/latest/increased-sexual-assaults.html>>

these vulnerable communities from the resettlement assessment process has no logical basis. In this circumstance, it is negligent for IDPs to be excluded from international mechanisms that are in place to provide permanent protection to peoples with a well founded fear of persecution.

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Recommendation 2 The Department of Immigration and Citizenship take steps to extend the Refugee Visa subclass 204 (Woman at Risk) to operate, where appropriate, beyond the recommendation of the UNHCR in order to include female IDPs and their families.

Failure to identify refugees and assess for resettlement needs in asylum countries

Further contributing to the under-representation of Darfuri refugees in Australia's resettlement intake, the UNHCR has not been well placed to conduct RSD and resettlement needs assessment for refugees in the places where most Darfuri refugees have fled. Darfuri refugees have predominantly fled to neighbouring countries including Chad, Libya and Egypt. In Chad, where an estimated 200,000 Darfuri refugees have sought protection, there is no formal process available to refugees to seek the resettlement option. Refugees are eligible for humanitarian assistance in Chad but permanent protection through local integration is not an option due to increasing insecurity and the lack of infrastructure and capacity to address the needs of the Darfuri refugee population. Despite these problems UNHCR has not established a process to assess the resettlement needs of these refugees.

The situation in Egypt is equally problematic for Darfuri refugees. Egypt is one of the few countries that has entirely deferred responsibility for those who seek asylum and refugee status to the UNHCR office, including the conduct of RSD and the provision of assistance in its various forms.⁹

UNHCR openly admits that local integration of Darfuri refugees in Cairo is not possible due to systematic racism, legal discrimination, enforced poverty and insecurity. An evaluation of UNHCR's policy on refugees in urban areas has recommended in 2001 that;

'...the reality of refugee life in Cairo mitigates strongly in favour of maintaining the resettlement option...local integration is not possible nor does UNHCR have the funds to provide adequate support locally at this stage. Resettlement is, in fact, the only concrete solution the Office has to offer at the present time'.¹⁰

Yet in June 2004, the UNHCR Regional Office in Cairo indefinitely suspended all RSD interviews for Sudanese asylum seekers. This move was prompted by the ceasefire declared earlier in the year between the government of Sudan and the Sudan People's Liberation Army. However, the new policy applied to all Sudanese, including those from Darfur whose situation had not been improved by the ceasefire. The new policy process, which has been reviewed and renewed every six months since 2004, means that no

⁹ Fateh Assam (Ed), *A Tragedy of Failures and False Expectations*, p. 6.

¹⁰ Stefan Sperl, *Evaluation of UNHCR's policy on refugees in urban areas: A case study review of Cairo*. UNHCR Evaluation and Policy Analysis Unit. EPAU/2001/07, June 2001, p. 32.

Darfuri refugees are being referred to Australia for resettlement despite their often compelling claims for permanent protection outside their country of first asylum.¹¹

These examples are cited not to criticise of the UNHCR, whose work around the globe is well regarded as an essential lifeline for millions of refugees and IDPs. Rather, we raise these issues to draw attention to the fact that if the Humanitarian Programme is to target those in greatest need of resettlement, the Department of Immigration and Citizenship (DIAC) must be more proactively involved in responding to the resettlement needs of IDPs and refugees who do not have access to UNHCR protection mechanisms.

Recommendation 3 That the Department of Immigration and Citizenship monitor and support the UNHCR in Cairo and Chad in order to develop and maintain on-the-ground knowledge of the specific situation of those Sudanese displaced by the conflict in Darfur.

Darfuri asylum seekers stranded in the desert between Iraq and Jordan also fall within the administrative cracks of RSD and resettlement needs assessment. These asylum seekers fled their livelihoods in Iraq due to persecution caused by fighting and tensions in the region, but were rejected from seeking asylum in Jordan. The UNHCR has identified 138 such asylum seekers, considered as *prima facie* refugees, who have been provided with emergency assistance through both the UNHCR and Iraqi charity *Mercy Hands*. UNHCR stated in April 2006 that one of its targets was to provide life-saving assistance to these asylum seekers, 'until they are relocated to a safer place and durable solutions are found'.¹²

Yet the situation of these asylum seekers continues with no remedy in February 2007. One child has died as a consequence of the harsh environment in which these people are stranded without access to consistent or sufficient medical and nutritional care. UNHCR has no mandate to assess these asylum seekers for refugee status nor to examine their resettlement needs. It is, however, overwhelmingly obvious that their resettlement needs are exceedingly high.

DAN is in regular contact with the aforementioned asylum seekers and has learnt that they are in danger of being forcibly repatriated to Sudan. Returning these asylum seekers to the country in which they suffered persecution could be considered a violation of the principle of non-refoulement as codified in the 1951 Geneva Convention.

Recommendation 4 The Department of Immigration and Citizenship take steps to extend the Refugee Visa subclass 203 (Emergency Response) to respond to those who are considered *prima facie* refugees but who exist outside the UNHCRs mandate and geographically remote and unable to access any immediate or enduring system of protection.

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¹¹ Fateh Assam (Ed), *A Tragedy of Failures and False Expectations*, p. 7.

¹² UNHCR Iraq Operation 2006: Supplementary Appeal. April 2006.

See <http://www.unhcr.org/cgi-bin/txis/vtx/partners/opendoc.pdf?tbl=PARTNERS&id=4458c0f22>

Humanitarian Program will allow the Australian Government's humanitarian response to target those in greatest need and who would otherwise be excluded entirely from the international system of protection.

Question 2: How can the Special Humanitarian Programme best target those in greatest need of resettlement?

DAN commends the Australian Government's continuing response to global refugee and humanitarian claims for resettlement, above and beyond the Convention requirements, represented by the Special Humanitarian Program (SHP). While many of Australia's Sudanese community have been resettled following recommendation by the UNHCR under Refugee Visa Subclass 200, the majority of the small number of entrants from the Darfur region of Sudan, have been resettled through the SHP (Visa subclass 202). This demonstrates the potential for a flexible response by the Australian Government to humanitarian claims by allowing for the inclusion of applicants who, although in refugee-like circumstances, do not fall under the Convention definition of a refugee. Further, the prerequisite of a proposer on SHP application facilitates positive settlement outcomes by reuniting family and friends in Australia and engaging the broader community in Australia's humanitarian response.

DAN's recommendations for how the SHP may best target those in greatest need revolve around the claim that the SHP "provides the government increased flexibility in targeting the Humanitarian Programme as the identification of applicants is not dependent on referrals by the UNHCR"¹³. As detailed above, it is evident that the UNHCR, due to inadequate operational capacity, is not always able to give a fair and accurate recommendation for resettlement of those displaced by conflict.

In the case of Darfuri's in Cairo, there are many who have already been determined as legal refugees but UNHCR has still not been assessing the needs of these refugees for resettlement. Darfuri refugees have been denied the right to seek permanent protection and have their resettlement needs adequately assessed because of administrative, legal and bureaucratic anomalies in the system. Given the high level of influence UNHCR recommendations have of the regional composition of the Humanitarian Program, these anomalies are highly problematic. How can the Australian Government prioritise those in the greatest need of resettlement if the structures and mechanisms for UNHCR to make these recommendations are missing in the places where refugees are most vulnerable?

Given this situation, the SHP provides the Australian Government a way to identify those most vulnerable amongst refugees and those with refugee-like claims and, when appropriate, provide protection through resettlement to Australia.

Recommendation 6 That the Department of Immigration and Citizenship use the SHP to assess and appropriately resettle those from Darfur with legitimate refugee-like claims who are unable to access the resettlement recommendation scheme or RSD due to the insufficient operational capacity of the UNHCR.

Recommendation 7 The SHP should prioritise applicants in areas where the UNHCR lacks operational capacity or jurisdiction.

¹³ Commonwealth of Australia, *Measures to Improve Settlement Outcomes for Humanitarian Entrants*, Discussion Paper, October 2006

DIMIA's discussion of projected resettlement needs, in the publication entitled *Refugee and Humanitarian Issues: Australia's Response* (2005), demonstrates an absence of any distinction between those affected by the ongoing conflict in Darfur and the fragile peace in South Sudan. The report states that "as a result of the Sudanese peace process, UNHCR hopes that the numbers of Sudanese in need of resettlement will decline during 2005 and beyond. It is expected that there will still be some Sudanese, particularly vulnerable individuals such as woman at risk cases, who will continue to be in need of resettlement"¹⁴. DAN suggests that the relatively small number of Sudanese recommended for resettlement by the UNHCR from Chad and Cairo be considered misrepresentative of the number of Darfuri with legitimate refugee or refugee-like claims.

The SHP may act as a tool to assist in the effective identification of those in greatest humanitarian need. There may be administrative difficulties in differentiating between those Sudanese affected by the Darfuri conflict and those who have the option of voluntary repatriation into South Sudan. These may be overcome by way of improved dialogue with community organisations (such as DAN and the Darfur Community Association) combined with the proposer requirement of the SHP. In this way, the SHP can identify those in greatest humanitarian need who are unable to access to the UNHCR's RSD and resettlement assessment mechanisms.

Recommendation 8 That the Department of Immigration and Citizenship, where possible, use the SHP proposer requirement to effectively differentiate between those displaced by the Darfuri conflict and those from other parts of Sudan.

In its discussion of the recent move to onshore lodgement and processing of offshore applications, DIMIA suggests that this move "allows overseas posts to focus more on relationship – building with local implementation partners such as UNHCR and the International Organization for Migration (IOM)."¹⁵ DAN sees this as an opportunity for DIAC to establish a greater degree of communication and information sharing with these partners. This could lead to a more accurate perception of the on-the-ground situation of vulnerable groups, particularly those who fall between the cracks of the respective mandates of such organisations. Further, DIAC could utilise, where appropriate and possible, secondary refugee agencies for identification of vulnerable groups.

Question 3: What information should be included in pre-embarkation information and cultural orientation classes to ensure that humanitarian entrants have realistic expectations of life in Australia?

DAN commends the Australian Government's efforts to provide linguistic, and cultural orientation prior to resettlement into Australia through the AUSCO program. While pre-embarkation orientation information is an essential part of smoothing the transition of refugees to Australian life, DAN believes that it is not only refugees that require information and cultural orientation before arriving in Australia. DAN advocates that one-way integration should not be the sole focus of resettlement support in Australia. Rather, the Australian community should be encouraged to participate in cross-cultural awareness and education to enhance acceptance and support of refugee communities and address ongoing racism and xenophobia in the mainstream Australian community.

¹⁴ Australian Government, Department of Immigration and Multicultural and Indigenous Affairs, *Refugee and Humanitarian Issues: Australia's Response*, 2005, p. 35

¹⁵ DIMIA, *Refugee and Humanitarian Issues: Australia's Response* 2005, p. 38

DAN believes that in order for refugees and SHP entrants to resettle amongst the Australian community in a harmonious and mutually beneficial way, the Australian community must have a much greater level of awareness and education about the circumstances of refugees. It is important for Australians to have realistic expectations of refugee's capacity to participate in Australian schools, communities and employment in the short-term. Negative social stigma of refugee communities only works to compound isolation and undermine resettlement prospects of refugees, perpetuating a cycle of marginalisation and intolerance in society.

It is important for the Australian public to not only be aware of the general circumstances faced by refugees, but also about the distinct cultural backgrounds, practices and beliefs of Australia's diverse refugee communities. Through cross-cultural awareness, as opposed to one-way-integration, resettlement outcomes will be greatly improved.

Question 4: What groundwork is required to prepare for and support establishment of humanitarian settlement in new regional locations?

The basis of any just and effective humanitarian resettlement programme must be significant attention paid to preparing local communities and infrastructure for refugee arrivals. This preparation must be in the form of;

- public education and addressing racist attitudes in the community;
- provision of infrastructure to accommodate the basic needs of refugee communities;
- enhancing the community's ability to provide new and existing services and support to aid the transition refugees go through from persecution to their new reality in Australia; and
- developing effective and appropriate projects and programmes to help bridge refugee skills and develop English proficiency.

Supporting this, a 2005 Brotherhood of St Laurence study of Iraqi and Sudanese refugees settled in regional areas determined that the keys to refugees' social inclusion in the regional communities included the availability of resources (such as employment, education and training, housing, adequate income support, English classes, interpreting facilities and support services) and the quality of relationships with the host community (welcoming or hostile).¹⁶ There is as significant role for DIAC to ensure both the attitudes of the host communities and the services they can offer are adequate to meet the needs of emerging refugee communities. This role is even more crucial in regional areas given the relative lack of support structures and infrastructure in place outside major towns and cities.

DAN believes that at present the Australian Government has provided an inadequate level of resettlement support to communities accepting refugees. While local governments and communities are best placed to plan for the arrival of emerging refugee communities, DAN does not believe local governments and communities have adequate resources to ensure effective support services and community engagement with emerging communities. In this situation refugee communities are set up to fail, and the communities housing them are prone to blaming the victims of poor community development planning.

¹⁶ Taylor, Janet and Dayane Stanovic. "Refugees and regional resettlement: Balancing priorities". Brotherhood of St Laurence, May 2005.

DAN proposes that in order to maximise the positive social benefits of refugee resettlement and plan effectively for regional resettlement, DIAC should significantly increase investment in the Settlement Grants Program (SGP).

The SGP aims to enhance the self-reliance of refugee communities through discretionary application-based grants provided to community organisations, local government and in some cases government departments (ie. in regional areas where community organisations may not have the expertise to provide relevant services). The SGP is an appropriate vehicle through which the government could provide much needed capacity support to local communities and local governments in regional areas to improve both local attitudes and essential and beneficial services.

In order to maximise this potential in regional areas, however, DIAC must dramatically enhance its financial investment in the programme. At present only \$31m is available for the SGP in 2006/07, yet this programme represents the greatest opportunity for significantly increasing the potential of local communities in regional areas to prepare for humanitarian entrants. The programme not only aids the provision of essential and beneficial resettlement services, but also enhances the participation of the local community in the provision of those services, thereby enhancing relationships between the local community and emerging refugee communities.

Recommendation 9 That the Department of Immigration and Citizenship significantly increase funding for the Settlement Grants Programme in 2007/08 to increase the preparedness of local communities in urban and regional areas to support and welcome emerging refugee communities.

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