In making its recommendations, the Expert Panel had a difficult task in dealing with the impasse between the government and the opposition and the politicisation of a humanitarian issue. Rather than showing leadership and asking the political parties to do the same, it has come up with a way of pleasing the protagonists by supporting the opposition’s push for Nauru (and adding an extra sweetener in the form of Papua New Guinea) and leaving the policy door open on Malaysia.

The mantra of Stop the Boats must cease. The politics of fear remains in place, with the discourse changing from the fear of terrorists (Reith), the fear of ‘scum of the earth’ people smugglers (Rudd) to fear of deaths at sea (Gillard and Bowen).

There are a few recommendations that can be applauded and have been introduced because they are largely uncontroversial in the political and community domain. Increasing the refugee intake and family reunion program are positive steps yet these are countered by the cruel provision of banning family reunion to those who come by sea. The principle of family integrity is core to global refugee protection and as we are led to believe a fundamental tenet of Australian values. Prohibiting lawful family reunion has also been demonstrated to counter efforts to deter boats as it leads to more women and children getting on boats as it becomes the only realistic possibility for family reunion.

The report introduces the ‘no advantage principle’, which, while having a catchy appeal for some, is punitive pure and simple. Core to the punitive elements are that refugees arriving by boat will be compelled to wait in Nauru or Manus for the same length of time a wait elsewhere might entail. Where is ‘elsewhere’ and how long is the wait? Approved refugees routinely wait years, even decades in Malaysia, Indonesia, Thailand, Pakistan, Iran, Kenya. There are serious issues with the international refugee protection regime and global efforts of the UNHCR are directed at improving processing times not extending them.

Rather than contributing to improved regional mechanisms, the ‘no advantage principle’ heralds a race
Asylum seekers disembarking at Christmas Island, 2009

One glimmer of hope in the report is that there is a call for a robust rethink of asylum seeker policy, a range of measures including the touted regional framework. Although the government has quickly jumped ahead with more bilateral arrangements, civil society needs to ensure that they not only participate but take the lead in policy formulation of the future.

For now, let’s be creative and call for a new way rather than revisiting the old harmful ways. An amnesty would be the best start. Grant permanent visas to all asylum seekers currently in immigration detention, on community detention and on Bridging Visas. Provide swift passage to all those waiting in Indonesia and Malaysia who have been approved as refugees and provide resources so that the others can be processed quickly and resettled.

As well as being humane for asylum seekers, it also makes good foreign policy sense. There is a concern among our nearest neighbours that when Australia talks of a regional framework it is code for reducing Australia’s participation in responding to refugees in the region, shifting more responsibility to Indonesia, Malaysia and Thailand – all countries with far greater numbers of refugees and far less financial capacity and infrastructure to carry this responsibility. An amnesty coupled with significant immediate steps to relieve some of the ‘burden’ would be a concrete show of good faith and establish positive and fertile ground for negotiating a truly regional solution with genuine collaboration between nations.

The Expert Panel has paid far closer attention to national political contests than to the human rights of refugees and asylum seekers and the expertise of those working in this field. Civil society in Australia has proposed workable solutions and sadly, it seems we must continue to do so.

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