

# Submission to the Australian Government's Expert Panel on Asylum Seekers

Submitted by Tamils Against Genocide jointly with Tamil Youth Organisation, Australia, Voice of Tamils, Australia and PEARL



## ABOUT TAMILS AGAINST GENOCIDE

Tamils Against Genocide [TAG] consists of Tamils Against Genocide Inc and Tamils Against Genocide Europe Limited, non-profit litigation and advocacy organizations incorporated in the United States and the United Kingdom respectively. TAG is mandated to assist survivors and witnesses of war crimes, crimes against humanity and genocide and to bring litigations against perpetrators.

TAG's mission statement is on its website at <http://www.tamilsagainstgenocide.org/AboutTAG.aspx>.

More information can be obtained on the website [www.tamilsagainstgenocide.org](http://www.tamilsagainstgenocide.org) or by emailing TAG at [advocacy@tamilsagainstgenocide.org](mailto:advocacy@tamilsagainstgenocide.org)

# Submission to the Australian Government's Expert Panel on Asylum Seekers

Tamils Against Genocide  
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## Executive Summary

*In the context of Sri Lanka's ongoing ethnic conflict and the attendant human rights abuses this is generating, Tamil refugee flows from the island are likely to continue unabated. Tamil Diaspora organizations wish to contribute to the safe management of these flows, working with international partners, by providing free passage on safe, managed ships to Tamils with UN refugee status.*

*This proposal, drawing on the global Tamil Diaspora's resources and skills, and working with international partners, will undermine and help contain the problem of abusive and exploitative people smugglers and the risks to personal and international security their activities entail.*

*The legal implementation of this proposal would thus require a re - consideration of the Anti-People Smuggling and Other Measures Bill (2010), particularly the expansive definition of the offence of People Smuggling in section 233A. The breadth of the current legislation is, we feel, not helpful and warrants reconsideration in order to facilitate a broader debate on solutions.*

This proposal is submitted on behalf of a consortium of organisations including:

- Voice of Tamils, Australia [[www.voiceoftamils.org](http://www.voiceoftamils.org)]
- Tamil Youth Organisation, Australia
- People For Equality and Relief in Lanka [PEARL, [www.pearlaction.org](http://www.pearlaction.org)]
- Tamils Against Genocide Europe and Tamils Against Genocide Inc. [[www.tamilsagainstgenocide.org](http://www.tamilsagainstgenocide.org)]

## Introduction

*Sri Lanka's ethnic conflict continues to intensify with on-going human rights abuses in the context of an intense militarization of the Tamil speaking areas of the country. Tamils face persistent risks of arbitrary arrest and indefinite detention, disappearance, extra-judicial killing and severe and punishing restrictions on freedom of expression and movement. The strengthening of Sinhala Buddhist chauvinist sentiment since the end of the war has also led to acts of collective violence against Tamil speaking communities across the island.*

Thus an increasing number of Tamils are desperate to leave and are willing to risk perilous journeys at extortionate prices in order to reach safe havens.

The trends in Sri Lanka's internal politics indicate that the contributing factors outlined above will continue to strengthen. We see little possibility for a reduction in outward refugee flows. In other words Tamils in large numbers will continue to seek ways, safe or unsafe, to leave the island.

The risk factors of journey by sea are exacerbated by the real or perceived illegality of the activity: the potential arrest of ship staff deter experienced professionals from making themselves available to man the ships while the possibility that ships will be confiscated means that owners are not willing to invest in their maintenance rendering the voyage unsafe.

These trends have reached a crisis point in the seas surrounding Australia where two boats carrying asylum seekers have sunk at sea with many casualties including children. Everyone agrees the situation is unacceptable.

## Objectives

Tamil diaspora citizens across the world are concerned at the asylum crisis that has manifested in Australia. An increasing number of asylum seeker boats are sinking en-route to Australia with great loss of life.

Diaspora organizations such as TAG and our partners in Australia and globally have thus come together to offer our assistance in researching the issues, formulating solutions and financing and helping to execute the implementation of these.

We believe that political trends in Sri Lanka imply that the number of Tamils seeking asylum will not be reduced at source. As such the issue of Tamil refugee flows is a long term one that that needs effective management.

We are keen to battle the tragic loss of life among people who have already suffered so much during the recent war.

Tamil Australian, Canadian, American and European organizations and others are interested to participate in the search for solutions and to help their countries meet their international obligations while maintaining the integrity of their borders.

## Diaspora offer and benefits

The global Tamil diaspora has significant skills and resources to bring to the table. Areas of support include:

- a. Assistance in researching the factors that contribute to the asylum crisis
- b. Formulating and researching solutions from sociological, legal and financial perspectives.
- c. Assistance in integration of refugees in their host countries
- d. Provision of services to refugees: for example translation, legal and medical support.

## Proposed solution to recent Australian crisis

In the first instance we wish to put forward the following solution to the Australian government's Expert Panel on Asylum Seekers.

Tamil diaspora organizations will provide free, safe, transport for Tamils who have been accepted as refugees by the UNHCR.

*The passage would be agreed with international partner organisations and national governments. The legal implementation of this proposal would thus require a consideration of the Anti-People Smuggling and Other Measures Bill (2010), particularly the definition of the offence of People Smuggling in section 233A.*

## Advantages of proposed solution

The proposed solution

- a. Will help *contain the problem of people smuggling while bringing transparency and legitimacy to the management of refugee flows.*
- b. Is fully legal and transparent. It does not meet the definition of people smuggling as it is a non-profit activity, backed by a consortium of NGOs and non-profit organizations and details of the solution will be approved by a range of experts, civil society groups and governments.
- c. Incentivizes asylum seekers to follow the UN process, as this will enable them to qualify for safe, free and approved transport.
- d. Increases the overall safety of the asylum-seeking process – asylum seekers are encouraged to travel in the first instance to nearer countries that are not signatories to the UN refugee convention but where UNHCR processing can take place. They are dis-incentivized to make perilous illegal journeys to UN signatory countries such as Australia and Canada
- e. Better manages the backlog in the UN process and dis-incentivizes UN accepted refugees in non-UN-signatory locations such as Thailand, India, Malaysia from undertaking perilous journeys.