

ASYLUM SEEKERS AND REFUGEES—  
**WHAT SORT OF AUSTRALIA DO YOU WANT?**



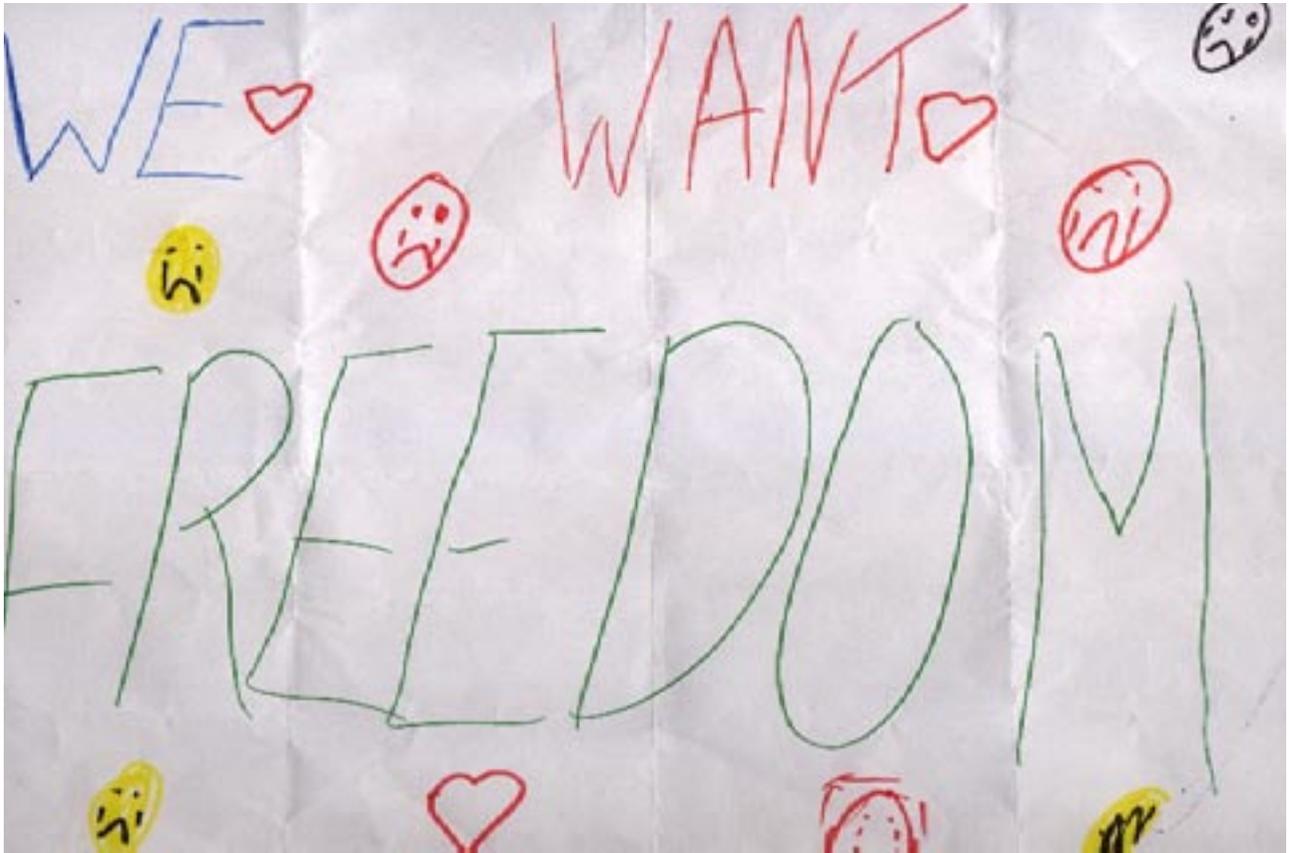
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ff australia  
Film Finance Corporation

**STUDYGUIDE**  
PUNISHED NOT PROTECTED

ISSUE 35 AUSTRALIAN SCREEN EDUCATION

**PUNISHED NOT PROTECTED**



## AUSTRALIA AND ASYLUM SEEKERS—WHAT'S IT ALL ABOUT?

Australia is a nation with a long history of accepting refugees

The Australian government has usually been in a position to completely control who comes, when, and in what numbers. Being surrounded by water meant that it had not faced the problem of sharing land borders with other nations, and receiving refugees in an uncontrolled way.

However, from 2000 the number of people arriving illegally by boat began to increase. In 1998/91 the figure for such arrivals was 921; in 1999/2000 it was 4,175; in 2000/01 4,141; in 2001/02 1,212 but with another 2,435 turned away because of changes to the law; in 2002/03 it was only 118.

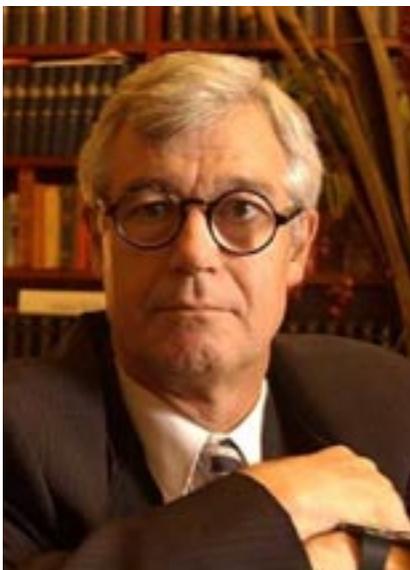
In late 2002 the Federal Government adopted new policies that, in effect, stopped asylum seekers from being accepted into Australia for processing. Instead, they were sent to one of several Pacific nations, where they had far fewer legal rights to pursue their claim to refugee status.

The policies and practices adopted in late 2002 clearly stopped arrivals, but were they just and desirable?

Under international law Australia has undertaken a duty to protect refugees.

The Government justified its policies and actions by insisting that the main issue was the protection of Australia's borders from illegal arrivals. To do this it had to act firmly, and send a message to the 'people smugglers' organizing the boats that they would not succeed in getting people to Australia.

Many people, however, believed that in pursuing this aim of territorial integrity, Australia was in fact trampling on the human rights of the asylum seekers, and condemning them to intolerably cruel treatment in Australia. These people argued that more humanitarian policies towards asylum seekers could be created, while still protecting Australia's borders.



State/ Territory	Key Learning Area Strand/Subject	Level	Key Learning Area/ Strand/Subject	Level
<b>ACT</b>	Time, continuity and change • Place and space • Culture • Natural and social systems • English	<b>7-10</b>	Australian Studies • History • Political studies • Legal studies • Geography • English	<b>11-12</b>
<b>NSW</b>	English • History • Geography	<b>Stages 4 and 5</b>	English • History extension • Modern history • Geography	<b>11-12</b>
<b>NT</b>	English • Time, continuity and change • Social systems and structures • Environment	<b>Bands 4-5</b>	English • Australian studies • Geography • Legal studies • History • Studies of society • Australian legal system	<b>11-12</b>
<b>QLD</b>	Culture and identity • Systems, resources and power • Time, continuity and change • Culture and identity • English	<b>Levels 5-6</b>	English • Geography • Legal studies • Study of society	<b>11-12</b>
<b>SA</b>	Time, continuity and change • Place, space and environment • Societies and cultures • Social systems • English	<b>Middle years</b>	English • Geography • Legal studies • Studies of societies • Australian legal system	<b>11-12</b>
<b>TAS</b>	Time, continuity and change • Place and space • Culture • Resources • Systems—natural, legal, political and economic • Geography • History • English	<b>5-8</b>	Legal studies • Political issues • Geography • Australia and Asia Pacific studies • Australian history • Twentieth century history • English	<b>11-12</b>
<b>VIC</b>	History • Geography • Economy and society • English	<b>5-6</b>	Geography • English • Australian history • Legal studies • Political studies • Australian studies	<b>11-12</b>
<b>WA</b>	Place and space • Resources • Culture • Time, community and change • English • Geography	<b>7-10</b>	Australian studies • History • Law • Political and legal studies • English	<b>11-12</b>

LEFT PAGE: TOP: 'FREEDOM' BOTTOM: JULIAN BURNSIDE THIS PAGE: ABOVE: CHART 01 BELOW: MALCOLM FRASER

It is a difficult and complex issue, one that has divided the community, and one that continues to exist today.

It is one that every Australian must make a decision about: do you support the current policies towards asylum seekers that protect Australia's borders but have a devastating impact on many of the asylum seekers; or do you want a more humanitarian approach, one that will require new strategies for border protection?

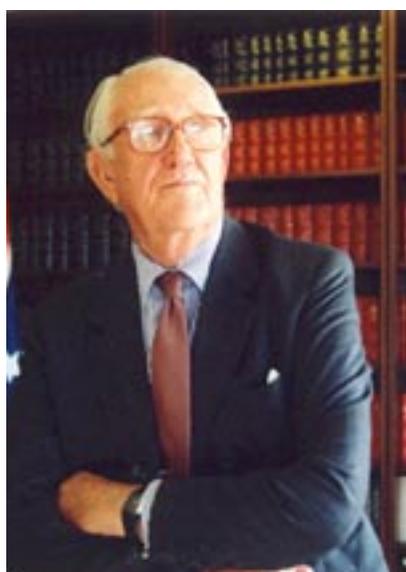
And, while you might have an opinion, that opinion is worth nothing unless it is informed.

That is the aim of this study guide: to help you develop an independent and informed opinion on the asylum seeker issue, using the video *Punished Not Protected* as a major source of information and ideas.

### **PUNISHED NOT PROTECTED**

*Punished Not Protected* (Judy Rymer, 2004) is a four-part, fifty-seven minute video focusing on the plight of many asylum seekers as a result of the Australian Government's current policies.

It is a partisan video, and not a dispassionate examination of all sides of the issue. It brings together a range of opinions, experiences and information to create support for its call for a



radical change to the Government's asylum seeker policies.

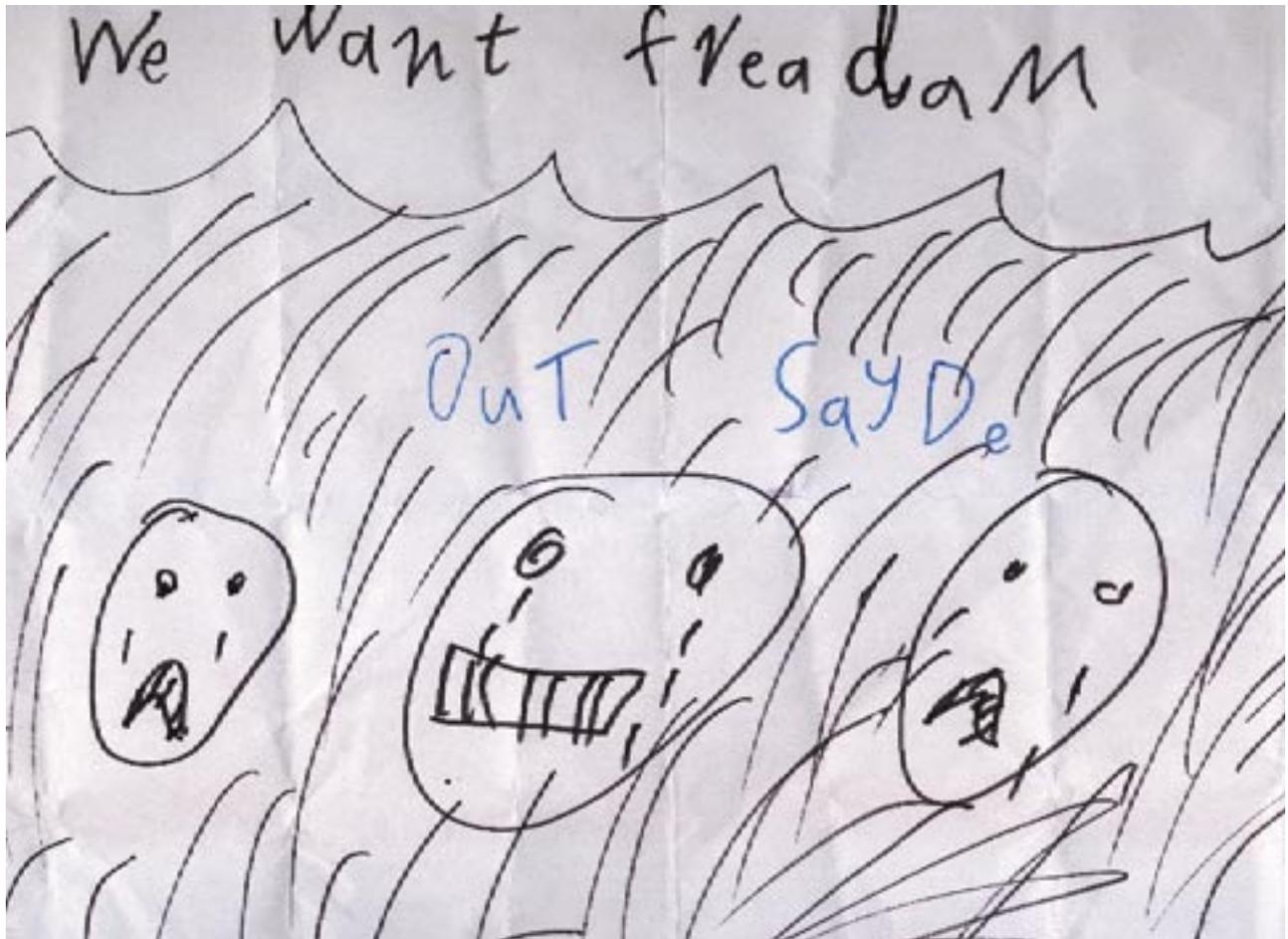
### **CURRICULUM GUIDE**

*Punished Not Protected* is an important resource for achieving learning outcomes in the national **Civics and citizenship** curriculum, and for a **variety of key learning areas** set out in all states' and territories' major secondary level curriculum documents. Teachers will be able to identify those areas within subjects where a study of immigration policies will be most relevant. (see chart 01)

### **FORMAT OF THIS STUDY GUIDE**

This study guide assumes that students have some awareness of the asylum seeker issue in Australia, but little knowledge about it.

Teachers are therefore encouraged to follow the structure outlined below to get the greatest value out of the video



ABOVE: 'FREEDOM' BELOW: YU H&S

and the study guide:

- 1 Introduce students to the issue through the 'Disaster—what would you take?' activity.
- 2 Present students with the Background Briefing document.
- 3 Watch the video in four stages rather than in one continuous sitting.
- 4 Discuss the questions associated with each of the four short 'episodes' in the video.
- 5 Come to a set of preliminary conclusions about the issues raised.
- 6 Encourage students to follow up with more reading and research on the issues.

### Disaster—what would you take?

Imagine that a terrible disaster has struck your area—it may be war, flood, drought, fire, or some other catastrophe. You have to leave your home. There is just no choice. You can only

carry five things with you. You cannot rely on anyone else because you are aware that you may be separated from your family—perhaps for a long time, perhaps even forever!

Look at this list of twenty-one possible items to take:

- Clothes
- Blanket



- Favourite toy
- Pet dog
- Passport
- Extra food
- Cash
- Photograph album
- Favourite CD
- Portable CD player
- Lap top computer
- Carving knife
- Your birth and school certificates
- Your favourite leather jacket
- Letters from your dead brother
- Credit card
- Title deed to a house that you own
- Camera and film
- Your grandfather's watch, handed down as an heirloom
- The expensive book you borrowed from a friend
- The nearly-finished novel you have been writing for the last ten years

You can choose no more than five. Make your choice, and be able to explain why you chose those five, and

why you did not choose the remaining fifteen.

- Make your choices now, ticking those you choose. Good luck!

The choice you had to make in this activity about what to take with you is one that has been faced by many of the world's twenty million-plus refugees and displaced persons of concern to the United Nations.

Of course, most of them had a far more limited choice of what to take with them than you were given, and did not have many luxury goods to choose from—but they still had to choose between what to take and what to abandon permanently. Most refugees in this situation choose:

- clothes (to help with disguise or concealment)
- travel documents (passport, identity cards)
- photographs
- presents given to them or other items of personal significance
- food

<http://atschool.eduweb.co.uk/rmex105/glo/ref.html>

### So what is a refugee?

Not all people who try to escape a disaster are refugees. The United Nations provides the following definition:

A **refugee** is someone who:

- Is outside their own country
- And is unable or unwilling to return
- Because of a well-founded fear of persecution
- For reasons of race, religion, nationality, membership of a particular social group or political opinion
- And is not a war criminal or wanted for a serious crime

Once a person is recognized as a refugee there are certain obligations that countries that have signed international conventions, as Australia has done, agree to accept.

An **asylum seeker** is someone who is



in another country and applying to be recognized as a refugee.

A person who has left their country because of war, famine, environmental disaster or to make a better life is not a refugee.

**2** Look at these situations. In which of these would the person be defined as a refugee?

- A member of a religious group who is being hunted by others.
- A person who is being hunted for the killing of a local dictator.



THIS PAGE FROM TOP: 'RAJA'; 'TARA'

- A person who has left her country because of constant floods destroying her home and farm.
- A person who has left his country to make a better life for his daughters, who cannot receive an education in their own country.
- A critic of the government, who is on a death list.
- A supporter of the previous government who will be jailed on corruption charges.

Apply the definition above to make your decisions.

### WHAT'S IT GOT TO DO WITH AUSTRALIA?

You can see from this that refugees are often desperate people who are in great danger, and who need help if they are to restore their lives.

When refugees are seeking safety and they arrive at a new country, they are classed as asylum seekers until it can be determined whether they qualify as refugees or not. If they are, then the receiving country, if it has signed the 1951 United Nations Convention on the Status of Refugees, has an obligation not to return that person to danger.

There are over twenty million people who are considered refugees today. Many look to Australia for help.

This is the key element of the issue that Australians are now facing: are you satisfied with the policies and practices that Australia is adopting towards those people who arrive by boat as asylum seekers, the majority of whom are found to be legitimate refugees? And if your answer is 'no', then what can individuals do about it?

But before you can tackle this question, you need to be clear about how Australia deals with refugees and asylum seekers at the moment.

- 1 ASYLUM SEEKER/REFUGEE United Nations statistics show that there are over twenty million 'persons of concern', in effect refugees, in the world.
- 2 IN UN SYSTEM Many of these are in UN refugee camps. In these camps they will be processed and may be sent to a receiving country such as Australia.
- 3 GO TO CLOSEST COUNTRY Many refugees flee to the nearest safe country, even though they are placed in camps that are not controlled by the UN, in countries that do not recognize the rights of refugees. In this case they have little chance of ever leaving these camps.
- 4 ESCAPE AND GO TO ANOTHER COUNTRY Many refugees choose to take their chances and escape to other countries where they may have a chance of a more normal life. Countries that can be reached overland are the most popular choice.
- 5 PROCESSED AND SENT TO ANOTHER COUNTRY There are nine countries that take a relatively small number of refugees each year.
- 6 STAY IN THE REFUGEE CAMP Most refugees are forced to stay in these camps.
- 7 PROCESSED AND SELECTED BY AUSTRALIA Australia is one of the nine countries that takes refugees through its 'offshore humanitarian' program. It takes about 6,000 refugees from such camps each year.
- 8 GO TO INDONESIA Many refugees are placed in camps in Indonesia. These are not part of the UN processing system.
- 9 STAY IN REFUGEE CAMPS Many refugees will stay in these camps for many years, with little hope of going elsewhere.
- 10 TAKEN BY PEOPLE SMUGGLERS TO AUSTRALIA Some refugees pay people smugglers to take them on boats to Australia.
- 11 LAND ON AUSTRALIAN TERRITORY If an asylum seeker lands on Australian territory and claims refugee status, they have access to the Australian legal system to pursue their claim.
- 12 LAND ON EXCISED TERRITORY Since 2002 the areas where asylum seekers most commonly land have been declared to be not part of Australia for migration purposes—so people do not have access to the Australian legal system.
- 13 PROCESSED IN AUSTRALIA Their refugee claim is investigated in Australia. IF ACCEPTED: If they are found to be refugees they are given a Permanent Protection Visa, which in effect gives them full citizenship rights in Australia. IF NOT—DEPORTED: If they are found not to be genuine refugees they are deported back to the country from which they came.
- 14 PROCESSED IN PACIFIC NATION From 2002 Australia has paid other nations to process these asylum seekers once the Australian Navy has delivered them. They are kept in detention while they are investigated and their refugee status is determined. IF ACCEPTED: If they are found to be refugees Australia may accept them, though it also may not. If not, they have to find another country to accept them. IF NOT—DEPORTED: If they are found not to be genuine refugees they are deported back to the country from which they came.
- 15 PERMANENT PROTECTION VISA A Permanent Protection Visa (PPV) in effect gives the refugee permanent security and human rights in Australia.
- 16 TEMPORARY PROTECTION VISA A Temporary Protection Visa (TPV) gives a person limited rights in Australia for three years, after which it might be renewed, or it might not. If a TPV holder leaves the country he or she may not be accepted back. If the TPV holder has spent even a few days in another country before reaching Australia their Visa will not be renewed. They have limited access to social welfare and other basic human rights within Australia.

ABOVE: CHART 02 A RIGHT: CHART 02 B

## HOW DOES AUSTRALIA DEAL WITH ASYLUM SEEKERS?

Here is a diagram showing various possible stages in a refugee's situation.

- 3 Cut out the explanatory text for each stage of this broad outline (see chart 02 a) and paste it with the appropriate stage on the diagram. (see chart 02 b)
- 4 Trace these three situations through the diagram:
  - Refugee goes to UN camp, is processed and accepted by

Australia

- Refugee goes to Indonesia, escapes via a people smuggler's boat, and lands on a part of Australia that has been excised.
- Refugee lands in a country with no processing facilities.

## INVESTIGATING ISSUES RAISED IN PUNISHED NOT PROTECTED

The video presents a series of experts, prominent Australians and refugees countering what the filmmakers characterize as series of myths about asylum seekers. It also includes some

excerpts from interviews with cabinet ministers. This is all presented in four short segments.

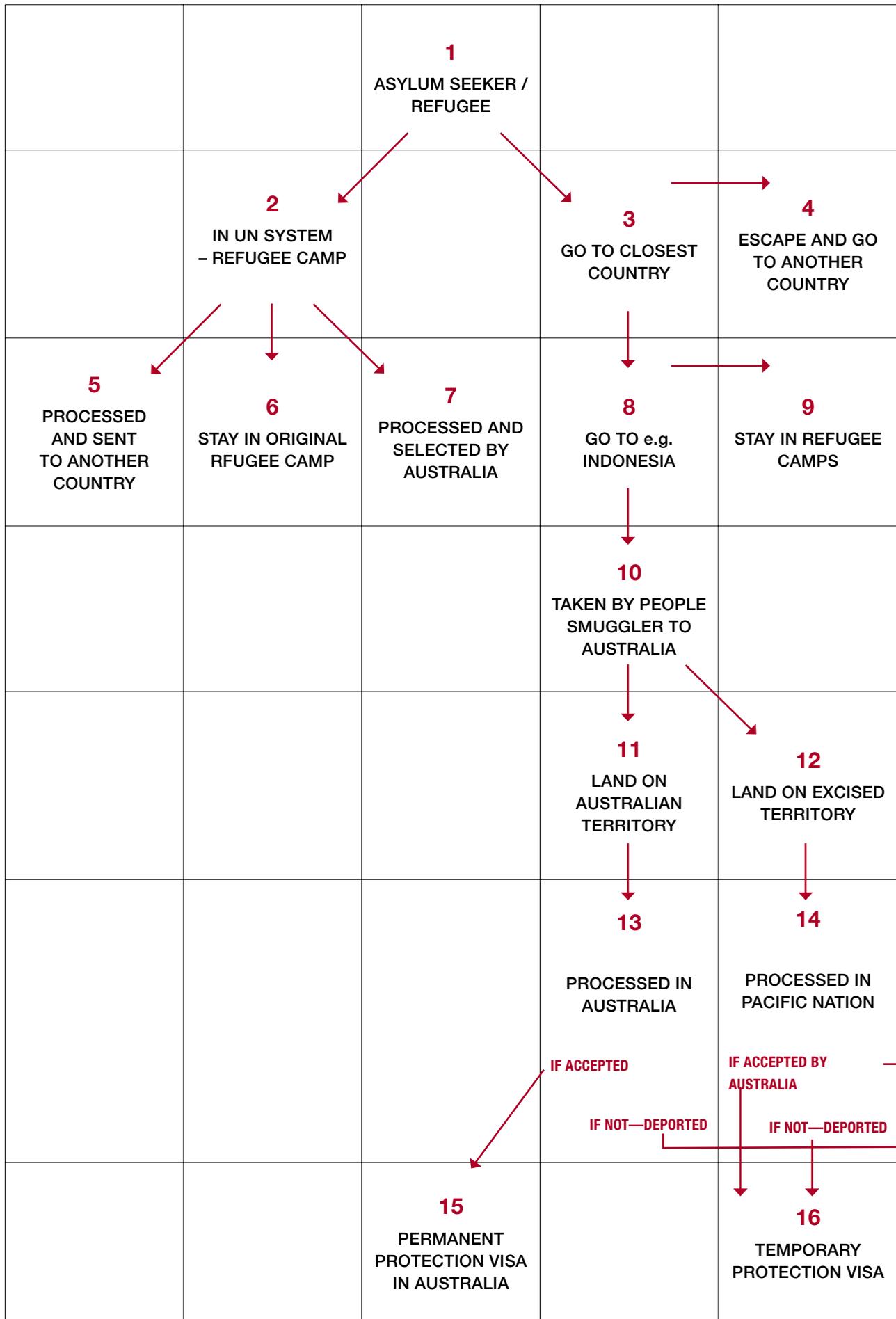
Teachers are advised to show the film in short segments, stop it after each segment, and discuss the issues raised

A guide follows to the main issues raised in each segment.

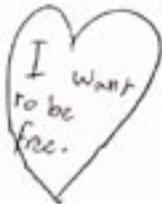
## 1 PREJUDICE ON ARRIVAL

This episode addresses three issues:

- Are asylum seekers who arrive by



To Minister Ruddock  
 My name is \_\_\_\_.  
 I am 9 years Old. I come from Iran.  
 I have a 7 Year Old Sister Colled  
 \_\_\_\_ I Came here with my family 16  
 Months ago because we are Scared I  
 have never Seen Melbourne because we  
 are locked up in this place. It is terrible  
 in here and I am very sad. I do not know  
 what I did that was bad. I want to see  
 Mum and Dad happy again. I am not eating  
 because I am an happy. I want to go to  
 Lunar Park. Please let me Out.  
 Thank you  
 from \_\_\_\_.



they do not have permission. Opponents argue that asylum seekers have the right to seek entry under the Convention, in order to 'seek refuge'. How can they seek refuge if they cannot arrive at the place where they want to seek it? Discuss these two opposing views. Which do you support?

## 2 BEHIND THE RAZOR WIRE

This episode focuses on the policy of mandatory detention of asylum seekers while their claims are being processed—sometimes for several years.

- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li>• Do they represent the first of many thousands who are waiting to come?</li> <li>• Are they 'illegal' immigrants?</li> </ul>   | <p>1.4 The then Minister for Immigration, Phillip Ruddock, claims in an interview extract that there 'could be up to ten thousand' getting ready; opponent Tim Costello says there have only been a small number in over 100 years. What is the problem facing a person who wants to make a judgement or evaluation about this argument?</p>  |
| <p>1.1 What is meant by the government's claim that asylum seekers are 'queue jumpers'?</p>  | <p>1.5 Figures provided by the Government show without doubt that the policies adopted during late 2002 have stopped the arrival of asylum seekers by boat. The Government sees this as a victory. Who is bearing the cost of this victory?</p>   |
| <p>1.2 Why is this a powerful phrase to use?</p>   | <p>1.6 The Government says that asylum seekers arriving by boat are 'illegal' because</p>   |
| <p>1.3 Various people in the video argue that this is misleading, that there is not a 'queue' in many places for the people to 'jump'. Discuss the situations that are referred to facing asylum seekers that challenge this idea of an orderly 'queue'. Look especially at the comments of Riz Wakil about the reality facing asylum seekers.</p> | <p>2.1 What is 'mandatory detention'?</p> <p>2.2 The Government justifies it on several grounds—quarantine and health, to establish the identities of the claimants, to check if they are wanted criminals, and to check their claim of persecution. Do you think those are reasonable arguments?</p> <p>2.3 What do the asylum seekers who have experienced it say about this detention?</p> <p>2.4 What have been the impacts on people, especially children?</p> <p>2.5 Zachary Steel proposes that asylum seekers be detained for a short time for compulsory checks, but then released into the community. What would be the advantages and disadvantages of that alternative approach?</p> <p>2.6 The Government claims that the process often takes a long time because asylum seekers have destroyed their papers, and that in countries where claimants are released into the community during the checking process, such as in England, many thousands of those who fail the checks have disappeared into the community. Government statistics reveal that 90% of all asylum seekers are eventually</p> |



ABOVE: 'TARA' RIGHT: 'ZANIB'



found to be genuine refugees. Do you think that detention is a reasonable policy?

### 3 LIVING IN LIMBO

Episode three focuses on the way asylum seekers are treated during the processing, and the status of Temporary Protection Visa holders.

- 3.1 Several interviewees describe the harshness of the interview system that is part of the processing process. How is this process so hard for the applicants?
- 3.2 Under Australian law since late 2002 most asylum seekers whose claim for refugee status is accepted are given a Temporary Protection Visa (TPV), rather than a Permanent Protection Visa (PPV). The PPV in effect gives refugees permanent residence in Australia with full civil rights. A TPV exists for only three years, and need not be renewed. It also provides the person with limited access to normal social services. It means that a TPV holder need not be re-admitted into Australia, even if, for example, a man went to visit his family in another country. What is your reaction to the situation that a TPV puts a person in—is it a

- fair and humane situation?
- 3.3 One interviewee describes the TPV as 'a golden cage'. Explain what she means by this.
- 3.4 There is discussion at the end of this segment about a 'bill of rights'. A bill of rights is a set of statements that guarantee absolutely a citizen's right and that cannot be changed by parliament. It sets out an agreed set of values for the nation. If a citizen thinks that a law is acting against a right set out in a bill of rights, they can appeal to the courts about it. Opponents argue that under the present law the government can make rules that go against asylum seekers' rights, and these cannot be challenged by the courts. Do you agree that a government needs to be able to be challenged and checked

by an impartial and independent judicial system?

### 4 RHETORIC AND REALITY

This episode focuses on two major aspects:

- ways that the government presents false images of asylum seekers, and
- the 'Pacific Solution' to dealing with asylum seekers.

- 4.1 How do critics suggest the government is deliberately distorting aspects of the numbers involved, the treatment of children, and fears of terrorism?
- 4.2 How could these be to the government's electoral advantage?
- 4.3 What are the arguments put against the Pacific Solution in terms of:

- legality
- cost
- being a regional neighbour?

## FINAL REFLECTIONS AND CONCLUSIONS

- 1 In an extract from a statement Prime Minister Howard calls Australia a 'decent, compassionate, generous and humanitarian nation'. Father Frank Brennan says Australians 'have lost the plot about decency'. With whom do you agree on this issue regarding our treatment of asylum seekers?
- 2 QC Julian Burnside says that once you know what is happening, you are either a collaborator, or an opponent. What does he mean by this? Which are you?
- 3 Former Prime Minister Malcolm Fraser says that we should treat others as we would like to be treated. Imagine that you were a refugee. Would you be satisfied with the way that Australia is treating you?
- 4 *Punished Not Protected* was made to present an argument and a point of view on the issue of refugees. It is a passionate presentation of an issue. What techniques have the filmmakers used to build their case? Discuss the various means—the people chosen to speak; the use of extracts from government speakers; the images; newsreel footage; the use of the 'mouths'; the use of vox pops. Are these effective in presenting the filmmaker's point of view?
- 5 Good citizenship often involves taking action. Whether or not you agree with the video that the current laws about asylum seekers are undesirable, discuss ways that an ordinary citizen could act to try to influence a change in the laws. For example, you might write a letter to your local Member of Parliament—would that person have any influence? What if the MP is part of the Government? Would one letter make any difference?

## FURTHER RESOURCES

Department of Immigration and Indigenous Affairs:  
www.immi.gov.au and go to Media for the Government's position on all issues, as well as FAQs

Human Rights and Equal Opportunity Commission:  
www.hreoc.gov.au and look for issues to do with Refugees

United Nations High Commissioner for Refugees:  
www.unhcr/Amnesty International  
www.amnesty.org.au/

Rural Australians for Refugees:  
www.ruralaustraliansforrefugees.org/

AUSTCARE:  
www.austcare.org.au/

A Just Australia:  
www.ajustaustralia.com/

Human Rights Watch:  
www.humanrightswatch.org

Oxfam Community Aid Abroad:  
www.caa.org.au/

Refugee Council of Australia:  
www.refugeecouncilofaustralia.org.au/

*Refugee and Asylum Seeker Issues in Australia*: Ecumenical Migration Centre, Melbourne, 2004.

*Australia and the Refugee/Asylum Seeker Issue* (Articles from *The Age* newspaper):  
www.education.theage.com.au

Edmund Rice Centre:  
www.erc.org.au/

*Refugee and Asylum Seeker Issues in Australia*. Published by the Brotherhood of St Lawrence. The booklet costs \$10 (20% off for orders of 5 or more). www.bsl.org.au or email orders emc@bsl.org.au or phone (03) 9416 0044.

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