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## **Twenty First Annual Report**

**2010-11**

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## President's foreword

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This Annual Report confirms the achievements of the Refugee Advice and Casework Service (RACS) in delivering high quality legal services, advocacy and policy development for vulnerable refugees in Australia. RACS is Australia's oldest community legal centre specialising in providing free legal advice and assistance to asylum seekers.

Due to the hard work and diligence of its staff and Management Committee, RACS remains in its strongest financial position for many years, and has invested considerable funds to maintain its future operations. RACS is now staffed by an Executive Director, Principal Solicitor, two Senior Caseworkers, four Caseworkers and an Administrative Assistant.

In this period, RACS benefited from the assistance of Caseworkers seconded from Mallesons - Natalie Zerial, Elizabeth McGill and Emma Bathurst. RACS also relies upon the invaluable support of a large group of volunteers including law students, solicitors/migration agents, interpreters and Management Committee members.

During the year, RACS was delighted to welcome a new Executive Director, Tanya Jackson-Vaughan, and a new Principal Solicitor, Chris Yuen. We farewelled our previous Director, Melissa McAdam, and Principal Solicitor, Meena Sripathy, Office Manager, Anne Maree Adams and caseworkers Ben Lumsdaine and Ting Lim. RACS sincerely thanks all of them for their enormous contributions to RACS over a challenging year, and wish them all the best in the future.

We also thank our Acting Coordinator for three months, Sally Johnston, for stepping in at short notice to steer RACS through a challenging period of transition and guiding it through a funding tender process. RACS also acknowledges the assistance of Brett O'Halloran, who consulted to RACS on the tender. My thanks also to the Management Committee, which assumed additional responsibilities during a busy year of staff recruitments.

In addition to its usual casework services to asylum seekers in detention and the community, RACS provided multiple taskforces of solicitors/migration agents to assist asylum seekers on Christmas Island and Curtin. With Immigration Merits Reviews also taking place in Leonara, Weipa, Darwin Immigration Detention Centre and Scherger. The remote location and time pressures of the taskforce work created additional demands on RACS' caseworkers and RACS thanks them for their commitment and professionalism in carrying out this important work. RACS also continued to be actively involved in law reform and policy work with government and the sector.

The demand for RACS' casework services is extremely high. Each year, RACS is forced to turn away asylum seekers with meritorious claims for protection because it lacks adequate resources. RACS is one of just a handful of organisations which provide free legal advice and assistance to refugees, and the pressure on RACS' staff is unrelenting and seldom publicly recognised.

RACS continues to operate in a difficult environment of political and financial uncertainty. Refugees remained highly politicised during the year, with controversial plans for a regional processing solution (in Malaysia and Papua New Guinea, after the abandonment of an earlier plan involving Timor Leste), and an Opposition proposal involving Nauru. This volatile climate makes it very difficult for RACS to manage its workload and finances, and ultimately to provide the most effective legal assistance to people in need of protection.

I thank RACS staff and volunteers for their hard work and commitment to RACS' clients in 2010-11 and look forward to another successful year ahead.



**Professor Ben Saul**  
President, RACS Management Committee

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## Organisational overview

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RACS was established in 1988 at the request of Amnesty International with funding from UNHCR in order to meet the increasing demand for legal assistance to people seeking asylum in Australia. On 1 July 1997, RACS changed its name to RACS (Australia) and confined its operations to NSW and the detention centres in Australia.

RACS has continued to provide a comprehensive, thorough specialist refugee advice service since its inception. This unique and vital service works closely with a broad network of legal and inter-agency support services, including the client-based services of many other organisations such as the Red Cross, Amnesty International, the Asylum Seekers Centre, the House of Welcome, the Service for the Treatment and Rehabilitation of Torture and Trauma Survivors, the Immigration Advice and Rights Centre, the Legal Aid Commission of NSW, the National Council of Churches and the Refugee Council of Australia. RACS' involvement with these organisations, which are similarly committed to assisting asylum seekers, is critical to its information sharing and support base.

RACS continues to play a significant role in the development of national policy on refugee law and procedure through its participation in a broad range of activities. This includes participation and advocacy at the Department of Immigration and Citizenship and Refugee Review Tribunal liaison meetings. In addition, we have also made written and oral submissions to the Senate Legal and Constitutional References Committee, the Senate Foreign Affairs, Defence and Trade References Committee, as well as providing regular submissions to DIAC. These submissions have been made on issues which are directly relevant to the protection and promotion of rights of asylum seekers under Australian law; issues on which RACS is well placed to comment, given its direct experience on a day-to-day basis with issues confronting asylum seekers throughout the determination process and beyond.

The focus of RACS' work is both local and regional - with the direct provision of casework advice and assistance to asylum seekers in the NSW community and those held in immigration detention in Villawood and remote detention centres including Christmas Island.

RACS also provides community education and training sessions to lawyers, migration agents, community workers, students and the general public in a wide variety of fora.

The fact that all the assistance provided by RACS is not for profit and free is fundamental given that the vast majority of our clients lack the financial means to privately fund the assistance required to fully and properly pursue their rights.

Throughout the 2010-11 financial year, RACS continued to provide high quality free legal advice and casework services to a section of economically and socially disadvantaged asylum seekers in the community. Sadly, RACS had to turn away many asylum seekers owing to its lack of capacity to meet the demand.

## Aims of RACS

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- To provide a free, expert legal service for individuals seeking asylum in New South Wales and the ACT, including referrals for counselling and assistance on related welfare issues such as accommodation, social security, employment, psychological support, language training and education;
- To provide a high standard of education about refugee law, policy and procedure to legal and welfare agencies and individuals involved in advising and assisting refugees;
- To establish a resource base of current information and documentation necessary to support claims for use by RACS, community organisations and lawyers assisting refugee claimants;
- To participate in the development of refugee policy in Australia as it relates to the rights of those seeking asylum in this country; and
- To initiate and promote reform in the area of refugee law, policy and procedures.

At a broader level, RACS aims to promote the issues asylum seekers face by raising public awareness and to advocate for a refugee determination process which both protects and promotes the rights of asylum seekers in the context of Australia's international obligations.

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## Details of the service

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The RACS office is based in Phillip Street, Sydney.

It operates a full-time casework service from Monday to Friday between the hours of 9.00 am and 5.00 pm.

RACS provides a free telephone advice service between 10.00 am and 12.00 pm on Tuesdays and Thursdays.

RACS also provides a free face-to-face advice clinic by appointment on Mondays between 2.00 pm and 8.00 pm, which is run by staff and volunteers.

Our contact details are as follows:

<b>Address:</b>	Level 12, 173-175 Phillip Street, Sydney, NSW 2000
<b>Telephone:</b>	(02) 9114 1600
<b>Facsimile:</b>	(02) 9114 1794
<b>Web:</b>	<a href="http://www.racs.org.au">www.racs.org.au</a>
<b>Email:</b>	admin@racs.org.au

## Service's structure

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### The Management Committee

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The Constitution and Rules of RACS provide that organisations and individuals may nominate representatives and individuals to the Committee of Management.

The following individuals were office-holders during 2010-11:

President:	Dr Ben Saul
Treasurer:	Lachlan Murdoch
Secretary:	Dr Jane McAdam
Committee Members:	Melissa Heris
	Teresa Cahill
	Geraldine Chin-Moody
	Tamara Domicelj
	Andrew Edgar
Honorary Life Member:	Margaret Piper

### The Public Officer

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The Constitution and Rules of RACS provide for a public officer who is responsible for keeping proper records. Teresa Cahill held the public officer role.



## The Staff

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There has been a lot of staff movement at RACS in the past year.

In March 2011, Melissa Macadam, who has worked on and off with RACS since 2001 and was in the Coordinator's role since July 2009, left to work in Turkey at the UNHCR. She was eventually replaced by Tanya Jackson-Vaughan, who has wide experience in the refugee/migrant field and brings a non-legal perspective to the organisation.

Meena Sripathy, RACS' Principal Solicitor, left in June 2011 and is currently a Member at the Refugee Review Tribunal. Her replacement, Chris Yuen, has worked at Immigration Advice and Rights Centre for 4 years. He brings years of experience in migration and refugee law and has been a great asset for RACS.

Caseworkers Renee Chartres, Anjilla Khwaja, Nadia Khan and Jemma Hollonds continued to provide excellent service to our clients. Ben Lumsdaine, with RACS for several years, left in 2011 with plans to study and work for the UNHCR. Kate McCrossin was brought in to replace Ben and thanks to her dedication and hard work, she has risen to the challenges presented when representing our vulnerable clients.

RACS introduced two Senior Solicitor positions into the organisational structure this year. Natalie Young and Radhika Kumar, RACS' new Senior Solicitors, both have years of experience working in the refugee and community sector. Their supervisory roles have added rigour to RACS' practice and their support has further strengthened the team of caseworkers who face significant challenges working in the current asylum seeker environment.

Keeping RACS running as the number of lawyers has grown has been an administrative challenge. Jane Zheng, our Administrative Assistant, with her calmness and experience, has contributed significantly to the smooth running of the office.

As mentioned in the President's report, the staff were assisted with their heavy workload by Mallesons secondees, Natalie Zerial, Elizabeth McGill and Emma Bathurst.

Max Morgan continued to give to RACS his considerable time, knowledge and experience to ensure that our finances and financial records are properly maintained. His commitment and many extra hours generously donated to the organisation are greatly appreciated.



## Funding and Support

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RACS continued to receive funding through the 2010-11 period under the Commonwealth Government's Immigration Advice and Assistance Scheme (IAAAS) contract, which commenced on 1 July 2006 and continued until 30 June 2011. Under this contract RACS received funding for performance of the following work:

- The provision of full application assistance for asylum seekers held in immigration detention in Sydney (Villawood) and Christmas Island, at both the primary and review stages.
- The provision of full application assistance for disadvantaged asylum seekers in the community in New South Wales and the Australian Capital Territory, at both the primary and Refugee Review Tribunal (RRT) stages.
- Immigration advice for disadvantaged asylum seekers in the community in NSW, including immigration advice face-to-face, by telephone and by way of written referral to government agencies, other registered migration agents (where the client is not eligible for full application assistance under the IAAAS contract) and community organisations. This includes conducting information sessions for community groups.

The Detention component of the IAAAS contract is uncapped; however it only applies to asylum seekers in immigration detention who are referred to RACS by the Department of Immigration and Citizenship (DIAC). This component is therefore contingent upon new arrivals of asylum seekers who entered Australia without immigration clearance and whom DIAC have referred to RACS.

The Community component of the IAAAS contract is a capped amount per annum and excludes post RRT matters.

The IAAAS contract came up for tender at the end of June 2011. The new IAAAS contract divided funded services into 3 categories - Category A community, Category B onshore detention centre clients, Category C taskforce. Taskforce is made up of clients who arrived by boat and are generally detained in the remote detention centres. IAAAS Providers were divided into preferred (70% of all work) and contingency (30% of all work). The contract for the 2011-2014 was finalised at the end of July 2011 and RACS received Category A preferred and Category B and C contingency provider status.

Given the politics surrounding offshore processing, RACS funding status is uncertain although continues to look healthy for 2011.

### **PPF funding**

RACS became the recipient of Public Purpose Fund funding in May 2008. Under a contract with Legal Aid NSW RACS is awarded an annual sum as funding to provide a community legal service to asylum seekers in NSW for a 3 year period. This contract was renewed for another 3 years starting July 2011. This funding will cover services that are not funded under the IAAAS.

### **University of Sydney**

RACS would like to acknowledge the support, contribution and partnership of the Sydney Law School and the University of Sydney. Under an agreement with the Sydney Law School RACS' offices are now in the old Sydney Law School Building in Phillip St, Sydney. We are able to operate in these premises rent free thanks to the generosity and support of the Law School and Sydney University.

Through our partnership with the Sydney Law School RACS provides clinical legal experience to law students in the Law School's Social Justice Program each semester.

### **Other Funding**

RACS has continued to diversify its funding base beyond the IAAAS contract. RACS is extremely grateful for the support received from many individuals.

## Volunteers

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RACS' volunteers continued to play an invaluable role in the organisation. Our volunteers contributed countless hours of their time to providing essential assistance to asylum seekers in the community, as well as providing back up support for staff. The staff are enormously grateful to all our volunteers for their assistance.

The following persons volunteered for RACS during 2010 -11:

## Volunteer interpreters

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Jenny Toisuta  
Nicky Yu Wu

## Volunteer migration agents

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Stuart	Brady	Alexia	Mayer
Louise	Chau	Haley	McEwen
Meredith	Dodds	Liz	McGill
Steven	Glass	Hai Van	Nguyen
Beth	Hackney	Rachael	Pliner
Reuben	Jahnke	Nick	Sandrejko
Hagen	Jewell	Christina	Taylor
Wendy	Lam	Mandy	Tsang
Ting	Lim	Chris	Yoo
Raymond	Lou		

## Student and Day volunteer

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Jimmy	Li	Kaine	McDonald
Genevieve	Schulz	Gabriel	Wakim
Laura	Costello	Kristen	Hammond
Kevin (Jeong	Whan) Kim	Divya	Chaddha
Kieran	Bockman	Ruchi	Bhatt
Gillian	Douglas	Rohilla	Dezhabi
Irini	Agollari	Ben	Sveen
Matthew	Varley	Daniel	Gillaspia
Kirstie	Underwood	Felicity	Douglas
Tammy	Wong		

## Pro-bono supporters

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RACS continued to receive services or in-kind donations from a number of private firms and individuals who provided their services, facilities and/or goods free of charge to RACS. This support is invaluable to the organisation and to the asylum seekers RACS assists.

The following individuals and companies provided their professional services to RACS pro-bono during 2010-2011:

Allens Arthur Robinson

Baker McKenzie

Blake Dawson

Dorja Pty Ltd

Freehills

Gilbert + Tobin

Henry Davis York

KPMG

Mallesons Stephen Jaques

Minter Ellison

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## Clients and casework

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RACS' major focus is the provision of legal services to asylum seekers and refugees. In the 2010-11 financial year RACS assisted over 1000 people through comprehensive casework assistance, advice provided through face-to-face appointments or by telephone, and through referrals to/from other agencies. RACS opened files for 641 new on-going clients, comprising 566 asylum seekers in detention and 73 in the community. Statistical breakdowns of the number, country of origin, and types of matters for which people have sought face-to-face advice are included below.

RACS' clients are from many and diverse countries, with many and varied experiences. What they all have in common is living away from their country of origin, many having been forced to flee from persecution and human rights abuses. They continue to show enormous courage, dignity and fortitude in a world where cruelty, injustice and inhumanity continue to loom large in their, and so many other people's, lives.

While RACS provided casework assistance to many refugees and asylum seekers, we have also sadly had to turn vulnerable individuals away despite the fact that they have met our means and merits tests. This has been due to a lack of sufficient funding and consequent inability to meet the high demand for our services.

We are immensely proud and privileged to have had the opportunity to assist the people we have and to have played some positive role in their lives and futures.

**Table 1: New Clients in 2010/11**

Country of Origin	Clients in detention	Clients in the community	Total number of clients by country
Afghanistan	369	2	371
Bahrain	2	1	3
Bangladesh	0	1	1
Burma	1	5	5
China	7	5	12
Egypt	0	2	2
Fiji	1	1	2
Georgia	0	2	2
India	0	4	4
Indonesia	2	1	3
Iran	141	8	149
Iraq	9	0	9
Jordan	0	1	1
Kenya	0	1	1
Mongolia	0	4	4
Nepal	1	3	4
Nigeria	0	3	6
North Korea	1	12	13
Pakistan	6	3	9
Rwanda	0	1	1
South Korea	1	0	1
Sri Lanka	1	1	2
Stateless	23	1	24
Turkey	0	9	9
Uganda	0	1	1
Zimbabwe	1	1	2
Grand Total	566	73	641

**Notes:** 'Community' refers to clients who are living in the community. It includes cases where RACS provides comprehensive casework assistance, but does not receive any funding for the case including clients whose visas have been cancelled and clients who wish to make a second protection visa application. These clients are ineligible for funded legal assistance.

'Detention' refers to clients who are in immigration detention at the time of referral.

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## Origins

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RACS assisted new clients from 26 different countries.

The highest numbers of new files opened, by country of origin, for the 2010/11 Financial Year were as follows:

**Table 2: New Clients in 2010/11- Main Countries of Origin**

Country of origin	Number of clients
Afghanistan	369
Iran	141
Stateless	23
North Korea	1
China	7
Iraq	9
Pakistan	6
Turkey	0
Nigeria	0
Burma	1

**Table 3: Number of advice sessions provided, by country, in 2010/11**

<b>Country of Origin</b>	<b>Telephone Advice Sessions</b>	<b>Face Face Advice Sessions</b>	<b>to Country</b>	<b>Total Sessions per Country</b>
Afghanistan	22	3		25
Australia	1	0		1
Bahrain	5	0		5
Bahrain	1	0		1
Bangladesh	31	17		48
Belgium	1	0		1
Brazil	2	1		3
Burma	14	5		19
Burundi	2	0		2
Cameroon	3	0		3
Columbia	12	5		17
Cyprus	1	0		1
DR Congo	5	1		6
Egypt	17	5		22
Eritrea	1	0		1
Estonia	1	0		1
Ethiopia	3	2		5
Fiji	33	6		39
France	1	0		1
Ghana	1	1		2
Guinea	1	0		1
India	43	32		75
Indonesia	30	18		48
Iran	30	10		40
Iraq	27	3		30
Jordan	7	2		9
Kazakhstan	4	1		5
Kenya	8	7		15
Kurdish	3	3		6
Kuwait	1	0		1
Lebanon	12	7		19
Libya	2	0		2
Lithuania	1	0		1
Malaysia	4	0		4
Mauritius	4	3		7
Mongolia	10	6		16
Nepal	49	33		82
New Zealand	1	0		1
Nigeria	19	12		31
North Korea	11	1		12
<b>Pakistan</b>	<b>31</b>	<b>15</b>		<b>46</b>

Country of Origin	Telephone Advice Sessions	Face to Face Advice Sessions	Total Sessions per Country
Palestinian Occupied Territories	6	10	16
Papua New Guinea	6	1	7
Peoples Republic of China	145	41	186
Philippines	6	1	7
Rawanda	6	1	7
Russia	2	0	2
Senegal	4	3	7
Sierra Leone	1	0	1
Slingile	1	0	1
Somalia	6	0	6
Spain	1	0	1
Sri Lanka	22	7	29
Stateless	2	0	2
Syria	1	0	1
Tanzania	1	0	1
Thailand	1	0	1
Tibet	4	1	5
Togo	4	0	4
Tonga	2	1	3
Tunisia	1	1	2
Turkey	45	42	87
Uganda	8	2	10
Ukraine	2	1	3
Unknown	6	0	6
USA	1	1	2
Uzbekistan	1	0	1
Vietnam	1	0	1
Zimbabwe	18	12	30
<b>Grand Total</b>	<b>761</b>	<b>324</b>	<b>1085</b>

**Notes:** RACS provided advice via telephone and face-to-face sessions to people from over 70 countries of origin.

Matter type	Telephone advice	Face to face Advice Sessions	Total Sessions
<b>Primary</b>	455	194	<b>649</b>
<b>Review</b>	204	88	<b>292</b>
<b>Post RRT</b>	N/A	43	<b>43</b>
<b>Other</b>	119	0	<b>119</b>
<b>Total</b>	<b>778</b>	<b>325</b>	<b>1103</b>

## **Treasurer's report**

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The Statement of Financial Position and Statement of Financial Performance as at 30 June 2011 reveal the organisation's financial position has improved over the year under review.

Income and expenditure resulted in a profit of \$501,844 for the year.

By comparison with the last financial year income increased by \$461,212. The increase was largely due to continuing increased demand for remote detention centre work, particularly Christmas Island Task Force work and Task Force reviews in several remote centres. RACS also received \$100,000 in a Public Purpose Fund grant from the Legal Aid Commission of NSW.

DIAC Villawood Detention income reduced to a total of \$36,337 and Community Income for the year was \$284,238.

Expenditure increased by \$293,132 during the year. Interpreting & Translation costs increased by \$2062. Employee related expenditure increased by \$245,787 mainly due to increased staffing levels and employment of temporary staff to backfill for Christmas Island and other remote Detention Centre Task Force work. There were no other significant increases.

RACS has sufficient funds in reserve to maintain the current level of services over the ensuing 12 months.



**Lachlan Murdoch**

**Treasurer**

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## **President's declaration in respect of fundraising appeals**

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I, Ben Saul, President of Refugee Advice Casework Service (Inc) (RACS) declare that in my opinion:

1. The accounts give a true and fair view of all income and expenditure of RACS with respect to fundraising appeals;
2. The provisions of the Charitable Fundraising Act 1991 and the regulations under that Act and the conditions attached to fundraise have been complied with; and
3. The internal controls exercised by RACS are appropriate and effective in accounting for all income received.



**Dr Ben Saul**

**President**

Dated this 25<sup>th</sup> day of October 2011

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## **Statement of the Members of the Management Committee**

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The Committee has determined that this special purpose financial report should be prepared in accordance with the accounting policies outlined in Note 1 of the Notes to the Financial Statements.

In the opinion of the Committee, the accompanying accounts as set out in the attached Statement of Financial Performance, Statement of Financial Position, Statement of Cash Flows and Notes to the Financial Statements present fairly the financial position of the Refugee Advice and Casework Service (Australia) Inc. as at 30 June 2011 and the results of this Association for the year ended on that date.

On the date of this statement, there are reasonable grounds to believe that the Refugee Advice and Casework Service (Australia) Inc. will be able to pay its debts as and when they fall due.

This statement is signed for and on behalf of the Committee by:



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**Dr Ben Saul**

**President**

Dated this 25th day of October 2011

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