

Key Refugee and Asylum Seeker Issues

Delegation Briefing Paper - March 2007

Building on Australia's excellent record in refugee resettlement

In a world where the number of people in seriously protracted refugee situations continues to grow (now 9.3 million people), where access to asylum is greatly restricted and where human rights abuses continue to cause people to flee (e.g. from Iraq, Burma and Sudan), a strong commitment to refugee resettlement is vital. Many of the world's poorer nations are carrying a heavy load in caring for large numbers of refugees. The United Nations High Commission for Refugees (UNHCR), even within its current limited capacity, expects to identify 203,000 refugees in need of resettlement in 2008; however, it expects that only 84,000 resettlement places will be available globally. Australia's humanitarian program has grown by just 1000 places in the past decade while the overall migration program has doubled to 161,000. As a result, the humanitarian program has dropped from 14% to 8% of overall migration. Historically, Australia has been a world leader in refugee resettlement. Since 1947, around 700,000 refugees and humanitarian migrants have become permanent residents of Australia, making significant contributions to Australia's economic, social and cultural life. Recognising that Australia could lead by example in encouraging a greater global commitment to refugee resettlement, it is recommended that Australia:

- Increase the offshore humanitarian intake for 2008-09 from 13,000 to 17,000 places with an annual 4% increase in subsequent program years, in recognition of community support for the humanitarian program.
- Advocate for other nations to increase involvement in resettlement and support UNHCR resettlement initiatives.

Humanitarian family reunion visa

Australia's Special Humanitarian Program (SHP) plays an important role in assisting the reunion of families split by conflict. However, recent annual changes in the SHP's regional quotas have made family reunion more difficult from regions of the world where the quota has decreased significantly. To resolve this, there is a need for a humanitarian family reunion visa category which is independent of regional quotas. Under the proposed category, applicants would be assessed based on need and would retain access to the settlement support provided to other humanitarian visa entrants. It is further recommended that demonstrated dependency be the governing principle for assessing these family reunion applications, to ensure different cultural understandings of family are considered.

Practical problems for recent refugee and humanitarian arrivals

While the standard of settlement services for Refugee and Humanitarian Program arrivals is very high, these entrants require better targeting of existing programs and additional help in areas such as housing, language learning and access to employment. Housing problems include barriers faced by tenants with no rental history in Australia, the inaccessibility of public housing and the inability of larger families to afford suitably sized homes. There is a need for a national housing strategy for refugees and humanitarian migrants, to improve longer-term housing outcomes for humanitarian entrants and create additional housing stock for on-arrival accommodation. Humanitarian entrants identify problems with English language learning as among the most significant barriers to their successful settlement in Australia. Policies to improve the language learning of humanitarian entrants should include an increase in hours and greater flexibility in the running of the Adult Migrant English Program. Recently arrived humanitarian entrants face problems in finding satisfactory paid employment: difficulty in having overseas qualifications recognised, discrimination in the labour market, absence of specialised job service providers to deal with their needs and the pressures associated with the compliance regime applied to those seeking employment.

Reviewing settlement service funding models

Government funding practices in the refugee settlement services sector have changed radically in the past decade, with any core funding of services removed, competitive tendering introduced for on-arrival settlement support (through the Integrated Humanitarian Settlement Strategy) and short-term funding introduced for medium-term settlement support (through the Settlement Grants Program). These changes have discouraged positive and efficient collaboration within the sector, resulting in an over-emphasis on low cost-per-unit service provision and creating gaps in service provision. With the main on-arrival service contracts due to end in 2010, it is time to review whether current funding models are genuinely meeting the needs of newly arrived refugees and humanitarian migrants.

Australian funding of UNHCR

Australian Government funding of UNHCR has decreased by 32% in real terms since 2002, to just \$19.8 million in 2007. Given UNHCR's important role in addressing refugee needs, the pressing demands on the organisation and the significant organisational reform already achieved (including enhanced resettlement referral capacity), Australia must restore UNHCR's funding to its 2002 level in real terms, with an increase in overall funding of around 35%.

Positive engagement on regional asylum issues

In January 2007, UNHCR released a 10-Point Plan of Action on Refugee Protection and Mixed Integration, noting that it has become imperative for the international community to better address the problems associated with asylum seekers and refugees caught up in human smuggling and trafficking. This Plan provides an excellent framework for Australia's regional cooperation. It emphasises the importance of establishing entry systems which can identify new arrivals with international protection needs and of providing appropriate and differentiated solutions for them, while finding solutions for other groups involved in mixed movements.

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Reforms to Australia's Refugee Status Determination system

The current system of refugee status determination (RSD) requires a major overhaul, from initial provision of legal assistance and first stage assessments through to merits review and judicial review. The RSD process has been politicised and repeated legislative amendments have restricted proper judicial review and oversight, to widespread criticism by Senate Committees and the legal and advocacy community. Reports, investigations and inquiries have raised serious concerns with the processing of protection visa claims, including a striking lack of understanding and/or practical application of procedural fairness at primary review stages. A major overhaul, with the involvement of outside institutions and advocates, is needed to restore the public's faith in the system. It is recommended that the Government draw on the expertise of NGOs, legal and welfare experts by forming a working group to work with the Minister and the Department in developing policy options for a more efficient and rigorous RSD system.

Abolishing Temporary Protection

The ALP has made a welcome commitment to supporting the abolition of the Temporary Protection system. Immediate action on this is essential to guaranteeing rights denied to proven refugees. Temporary Protection Visas and Temporary Humanitarian Visas create intense psychological damage. People find it very difficult to rebuild their lives while they live in limbo. As matter of urgency, Australia must 'triage' the current damage by proactively converting these visas to permanent visas while removing the visa class for future arrivals.

Family reunion for former TPV holders

Temporary Protection Visa (TPV) holders are denied access to family reunion until after they have received permanent protection. This has kept families apart for up to a decade while wives and children remain in sometimes dangerous situations. The denial of family reunion has had an adverse impact on proven refugees to settle successfully in Australia because it has created extreme psychological distress and has left them battling to offer financial support to family overseas. As part of moves to repair the damage created by the TPV regime, priority must be given to reuniting families separated for many years by this system.

Work rights for Asylum seekers – Bridging Visas and the 45-day rule

Since 1997, all asylum seekers who did not apply for a Protection Visa within 45 days of arrival in Australia have been given a Bridging Visa E (BVE) while awaiting the outcome of their protection visa application. The BVE in many cases denies work rights, government funded income support and access to Medicare. As a result, BVE holders are often living under conditions of abject poverty and suffer a series of health and welfare crises including family breakdown, isolation, depression and cumulative debt.

The ALP has agreed to review the 45 day rule. This reform needs to be enacted as swiftly as possible to mitigate the damage currently being inflicted by the BVE both on asylum seekers and the community and charity groups forced to feed, clothe and support them.

Community Care Pilot - make it a program, not just a pilot

The Community Care Pilot (CCP) was an important reform of the previous Government. It allows families and vulnerable people who may in the past have been kept in immigration detention to be released into the community, with funding for non-government organisations to assist with their housing needs, with return counselling and to facilitate access to relevant services and support networks. The CCP has improved the integrity of migration management, by giving the necessary assistance they need to live with dignity in the community while their visa status is resolved or to make the voluntary choice of returning to their country of origin. By reducing detention and facilitating return with dignity, the CCP is a significant cost-saving to government. The CCP should be made an ongoing program and long-term detainees for whom there are no character or security concerns transferred from immigration detention to the CCP.

Alternatives to Detention

There have been many problems identified with the current system of detention in Australia. Contrary to the acceptable human rights norms, non-reviewable indefinite detention can be imposed on people who pose no health or security threat to the Australian community. The conditions themselves are inhumane. While minimum standards have been enacted for prisons, there are no such codified standards for immigration detention. Detention is also far more costly than community-based processing arrangements (such as the Community Care Pilot), which can be more flexible in terms of security reporting and oversight requirements.

Once identity and intent have been established, asylum seekers should only be detained if it can be established that the individual concerned poses a threat to national security, public order or public health. Any decision for prolonged detention should be subject to independent review. Each immigration detention centre should have an advisory committee with members drawn from community agencies such as Australian Red Cross. The advisory committee should be kept informed of the status of all detainees.