

TEMPORARY PROTECTION VISAS

A cornerstone of the new Coalition Government's asylum policy is a return to the use of Temporary Protection Visas (TPVs),¹ a policy which previously applied from 1999 to 2008. From the Coalition's pre-election announcements, the new Government will adopt a similar TPV framework to that of the Howard Government.² The Coalition has indicated that the TPV will be the only visa for which asylum seekers who have arrived by boat will be eligible if they are found to be in need of refugee protection. The duration of each TPV will be determined on a case-by-case basis, depending on circumstances in the country of origin but no individual visa will exceed three years in duration. Refugees will be able to apply again for temporary protection when a TPV expires but each case will be assessed again, with the decision based on the merits of the case at that time. If it is deemed that the situation has improved and that continuing protection is not required, the applicant would be required to return to the country of origin. Where it is deemed that the risk of persecution continues, a new TPV would be issued, again for a period of up to three years. Permanent protection visas will not be provided to a TPV holder within the first five years of the first TPV being issued and any decision to grant permanent protection could be done only through the non-compellable intervention power of the Minister.

TPVs will be issued with work rights and access to Medicare and other benefits. Work rights may be restricted to specific geographic regions. Benefits paid to TPV holders unable to find work will be set at the discretion of government, will not exceed equivalent Centrelink payments and will be subject to a mandatory mutual obligation scheme like "Work for the Dole". TPV holders will not be entitled automatically to access settlement services or support, with the Minister given discretion, by exception, to grant access to this support. While on a TPV, refugees will be denied permanent residency, the right to apply for citizenship or access to family reunion under any program. If a TPV holder chooses to leave Australia, he or she will be barred from returning. The main provisions are summarised in Table 1.

Table 1: Comparison of likely provisions for holders of Temporary and Permanent Protection Visas

	Temporary Protection Visa	Permanent Protection Visa
Visa provision	TPVs issued for periods of up to three years. TPV holders may apply again when the visa expires.	Immediate permanent residency
Income assistance	Eligible for benefits set at Minister's discretion; may have mutual obligation restrictions	Access to full range of social security benefits
Settlement support	Access to services and support unclear.	Access to full range of settlement support services
Work rights/ Employment	Permission to work but possible restriction based on geographic restrictions. Ability to find employment impeded by temporary status	Permission to work and access to all employment services
Health care	Eligible for a temporary Medicare card	Full access to Medicare
Education	Education access and fee requirements unclear.	Same access to education any other permanent resident; some additional supports available based on need
Language training	Eligibility for English language education unclear.	510 hours of English Language education
Family Reunion	No rights to family reunion	Can apply to sponsor immediate family members (spouse and children)
Overseas travel	No right of return; TPV forfeited upon leaving Australia	Can leave and re-enter Australia

The Coalition Government is planning to reduce the Refugee and Humanitarian Program from 20,000 places each year to 13,750. However, the issuing of TPVs will be separate to this reduced program of 13,750, because the Coalition wishes to prevent "someone who comes by boat from taking the place of someone who is waiting to come

¹ Migration Amendment (Reinstatement of Temporary Protection Visas) Bill 2013 [No.2], www.comlaw.gov.au/Details/C2013B00030/Html/Text#_Toc349732647

² See Coalition Policy Statement, "Clear Labor's 30,000 Border Failure Backlog", lpaweb-static.s3.amazonaws.com/Policies/ClearLabor30000BorderFailureBacklog.pdf

to our country through the proper process”.³ The Coalition’s intention is that its TPV policy will apply specifically to asylum seekers who have arrived by boat and are already in Australia now. Any future asylum seekers who manage to reach Australian territory by boat will be sent to offshore processing arrangements in Nauru and Manus Island. Where asylum seekers transferred to Papua New Guinea or Nauru are found to be refugees, Australia “will work with other countries both within and outside the region to establish agreements for resettlement”⁴ However, Australia will provide TPVs “as a last resort for refugees assessed in offshore processing centres who cannot be placed in third countries”.⁵

The Refugee Council of Australia is concerned that the TPV policy is intended as a strategic tool to punish people who have been found to need refugee protection purely because of their mode of arrival. The Coalition promotes TPVs as “an effective deterrent against illegal arrival”,⁶ a claim which cannot be supported by events after the policy’s introduction in October 1999. In the two years following this, 10,217 asylum seekers entered Australia by boat, a five-fold increase on the number (1,953 arrivals) who arrived in the two years prior.⁷ However, given that all asylum seekers who try to enter Australia by boat now have no access to Australia, it is impossible for the Government to argue that the implementation of the TPV policy is aimed at deterrence.

The negative impacts of the TPV policy

Both broad and in-depth research has shown that the restrictive nature of the TPV policy had a decidedly harmful impact on refugees on TPVs and placed a heavy burden on the community groups and services trying to support them. The most prominent issues raised by the research are outlined below:

TPVs do not allow refugees to access the full range of services that are necessary for their successful settlement - Limited entitlements for and access to essential services (e.g. accommodation, food, household goods, finances, language training, employment and healthcare) prevent refugees from actively participating in the Australian community and condemn them to a life of dependence.⁸

Temporary status promotes feelings of uncertainty and insecurity and tensions within communities - The constant threat associated with the re-evaluation of refugee status makes settlement intrinsically difficult for TPV holders. The added politically constructed class divide between “onshore” and “offshore” refugees, compounds this issue as it creates tensions between ethnic communities.⁹

Denial of family reunion and travel rights is punitive and causes negative psychological effects - TPV holders have expressed concerns that restrictions on travel and family reunion are particularly designed as punishment. Studies have shown this distress was a leading cause of psychological problems among TPV holders.¹⁰

TPV restrictions compound psychological strains of past trauma - Restrictions to healthcare, English training, accommodation and family reunion cause additional psychiatric issues that multiply the effects of prior suffering.¹¹

TPV holders struggle to come to terms with their limited entitlements - The helplessness that many TPV holders feel restricts their ability to seek assistance from alternative sources.¹²

Ethnic communities are over-burdened by the high demand for assistance from TPV holders¹³ - Due to the inadequate provision of federal services, refugees often turn for assistance to their ethnic communities, who are ill equipped to respond to their complex needs.

Federal funding restrictions shift costs and burdens to state and community services - TPV holders are forced to seek assistance from providers that are under resourced and under skilled.¹⁴

Negative discourse surrounding boat arrivals misrepresents Australian attitudes and hinders refugee settlement - The Australian community’s reception towards refugees contradicts media representations of hostility. Despite media demonisation of “illegal”, “queue-jumping” arrivals, community networks and cultural initiatives appear key to the successful integration of refugees.¹⁵

³ Coalition Policy Statement, “Clear Labor’s 30,000 Border Failure Backlog”, pp5-6.

⁴ Coalition Policy Statement, “The Coalition’s Policy for a Regional Deterrence Framework to Combat People Smuggling”, p17 – <http://bit.ly/179P9cy>

⁵ Coalition Policy Statement, “The Coalition’s Policy for a Regional Deterrence Framework to Combat People Smuggling”, p17

⁶ Coalition Policy Statement, “Clear Labor’s 30,000 Border Failure Backlog”, [ipaweb-static.s3.amazonaws.com/Policies/ClearLabor30000BorderFailureBacklog.pdf](http://paweb-static.s3.amazonaws.com/Policies/ClearLabor30000BorderFailureBacklog.pdf)

⁷ Statistics from Department of Immigration and Citizenship in response to question on notice from Budget Estimates Hearing, 21-22 May 2012 (BE12/0265)

⁸ Barnes, D. (July 2003). *And A Life Devoid Of Meaning: Living on a Temporary Protection Visa in Western Sydney*, Western Sydney Regional Organisation of Councils, Sydney; Leach, M. & Mansouri, F. (2004). *Lives in Limbo: Voices of Refugees Under Temporary Protection*, UNSW Press, Sydney.

⁹ Mann, R. (2001). *Temporary Protection Visa Holders in Queensland*, Multicultural Affairs, Department of the Premier and Cabinet, Queensland Government, Brisbane.

¹⁰ The Centre for Peace and Conflict Studies (CPACS) (2003), ‘Go Away: Punished Not Protected: Temporary Protection Visa Holders’ Powerlessness, Federal Politicians’ Indifference’, University of Sydney, Sydney.; Leach, M. & Mansouri, F. (2004); Mann, R. (2001); Mansouri, F. & Bagdas, M. (2002); Nayano Taylor-Neumann, L.V. (2011).

¹¹ Momartin, S., Steel, Z., Coello, M., Aroche, J., Silove, D.M. & Brooks, R. (October 2006). ‘A comparison of the mental health of refugees with temporary versus permanent protection visas’, *Medical Journal of Australia*, vol. 185, no. 7, pp. 357-361.

¹² Fernandes, P. (2003). ‘Burning in the fire’ - the continuing saga: An analysis of group work with Temporary Protection Visa holders in New South Wales”, in Barnes D (ed) *Asylum Seekers and Refugees in Australia: Issues of Mental Health and Wellbeing*, Transcultural Mental Health Centre, Paramatta, pp. 55-79.

¹³ Barnes, D. (2003).

¹⁴ Pickering, S., Gard, M. & Richardson, R. (2003). “We’re working with people here”: The impact of the TPV regime on refugee settlement service provision in NSW, Charles Sturt and Monash Universities.

¹⁵ Taylor-Neumann, L.V.N. (2011).

BACKGROUND READING AND RESEARCH ABOUT TPVs

Barnes, D July 2003, *And A Life Devoid Of Meaning: Living on a Temporary Protection Visa in Western Sydney*, Western Sydney Regional Organisation of Councils, Sydney.

This paper determines the immediate barriers faced by refugees on TPVs in settling in Western Sydney. The high degree of secondary movement of refugees to the Western Sydney region has amplified settlement problems. The paper analyses the relationship between the complex needs of the TPV holders and the capacity of overburdened settlement services to provide for those needs under federal funding limitations.

Centre for Peace and Conflict Studies (CPCS) 2003, 'Go Away: Punished Not Protected: Temporary Protection Visa Holders' Powerlessness, Federal Politicians' Indifference'

This study examines the attitudes of politicians regarding the effects of the TPV on refugee settlement. It aims to demonstrate how the policy, which is designed for protection, in fact acts as a form of punishment.

Fernandes, P 2003, "'Burning in the fire' - the continuing saga: An analysis of group work with Temporary Protection Visa holders in New South Wales", in Barnes D (ed) *Asylum Seekers and Refugees in Australia: Issues of Mental Health and Wellbeing*, Transcultural Mental Health Centre, Paramatta, pp 55-79.

This paper aims to correlate the psychological experiences and survival strategies of TPV holders, who were attending an Early Intervention Program in New South Whales. Fernandes analyses the findings and effectiveness of trail group counselling sessions.

Humpage, L & Marston, G 2005, 'Contested Belonging: Temporary Protection in Australia', *Refuge*, vol 22 no 2, pp 67-76.

Humpage and Marston critically examine the concept of 'belonging' for refugees on TPVs and how the process of settlement is facilitated via community networks. They to link the political context of the TV policy with public discourse that contests the ability and right of refugees to belong. This paper aims to demonstrate, that despite the negative stigmatisation of TPV holders, it is possible to facilitate a sense of belong at a local level.

Leach, M & Mansouri, F 2004, *Lives in Limbo: Voices of Refugees Under Temporary Protection*, UNSW Press, Sydney.

This book contextualises individual refugee narratives within historical and political environment of their home countries, Australian refugee policy and the media. The analysis focuses on the chronological experience of TPV holders: their lives in their country of origin; their journey to Australia; their experience of detention; the psychological impacts of life on a TPV; and their reactions to stigmatising media discourse.

Mann, R 2001, *Temporary Protection Visa Holders in Queensland*, Multicultural Affairs, Department of the Premier and Cabinet, Queensland Government, Brisbane.

This study aims investigate the impacts of the TPV for refugees, service providers and the community in Queensland. Particular focus is given to limitations imposed by the Federal government, despite the Queensland state government's attempt to offer equal access to services for refugees on both temporary and permanent protection visas.

Mansouri, F & Bagdas, M 2002, *Politics of Social Exclusion: Refugees on Temporary Protection Visa in Victoria*, The Centre for Citizenship and Human Rights, Deakin University, Melbourne.

This paper identifies the core issues faced by TPV holders in Victoria, especially the obstacles they find as they transition into the community. Similarly the impacts of the TP policy on community organisations and service providers are also analysed. The researchers try to go beyond existent literature on the topic and connect with what it means to be identified as a TPV holder, bearing labels of 'illegal', 'queue jumper' and 'cashed up immigrant'.

Mansouri, F & Cauchi, S 2006, 'The Psychological Impact of Extended Temporary Protection', *Refuge*, vol 23 no 2, pp 81-94.

This study investigates the intrinsic psychological impact of the TPV policy on refugees, focusing on how living with an unlimited temporary status affects the settlement process.

McMaster D 2006, 'Temporary Protection Visas: Obstructing Refugee Livelihoods', *Refugee Survey Quarterly*, vol 25 no 2, pp 135-145.

This article examines the damage inflicted by the TPV policy upon the livelihood of refugees, the community organisation, and service providers. The political context of TPV policy is mapped out and an overview is provided of core issues faced by TPV holders, their transition into the community and their immediate social and cultural needs. McMaster makes no attempt to extend research past existing studies related to these issues.

Momartin, S, Steel, Z & Coello, M et. al. October 2006, 'A comparison of the mental health of refugees with temporary versus permanent protection visas', *Medical Journal of Australia*, vol 185, no 7, pp 357-361.

This paper adds a valuable discussion to the field of existing research, by comparing the mental health of TPV holders with refugees, who have been granted a permanent protection visa (PPV). They aim to highlight TPV policy as a compounding agent on negative psychological experiences of trauma and detention.

Pickering, S, Gard, M, & Richardson, R 2003, "*We're working with people here*": The impact of the TPV regime on refugee settlement service provision in NSW, Charles Sturt and Monash Universities.

This study aims to determine how settlement service providers have responded to the TPV policy. It examines the perspectives of service providers to identify how the policy, firstly compounds settlement issues for refugees and, secondly impacts their own practice and negotiation of outcomes for themselves and their clients.

Taylor-Neumann, LVN 2011, *Demonisation and integration of 'boatpeople' in Howard's Australia: A rural city's struggle for human rights of asylum seekers*, University of New England, Armidale (NSW).

This paper gives retrospective analysis into the experience of settlement for Afghani refugees on TPVs in the rural South Australian town, Murray Bridge. The study examines the conflict between humanitarian and sovereign right, as expressed by the Australian government, media and citizens, to the arrival of 'boat people' between 1998 and 2002. It discusses the paradox of the generosity and hospitality towards refugees within the Murray Bridge community despite their demonization by government, media and public discourse.