



Refugees and People Seeking Asylum Urgent issues and recommendations August 2022

Offshore Cohort.

- Refugees and people seeking asylum have been left behind in PNG and Nauru. Most are suffering physical and mental health issues after years of detention and neglect.
- Some people were on the Medevac list when the Medevac legislation was repealed in 2019, and they have still not received the treatment they need. Their health has deteriorated dangerously.
- Some people decided not to apply for resettlement in USA (or to withdraw from the process) due to:
 - Fears of continued racial and religious persecution due to the statements and Executive Orders President Trump was making at the time
 - Fears that they would be caught up in a war between USA and Iran given the tensions between the two nations at the time
 - Fears of gun violence and mass shootings in USA
 - Concerns that they would not receive the medical and mental health treatment they required, as they were still waiting for treatment when their USA resettlement offers were made
 - A need to be reunited with family members here in Australia
- The NZ offer will take three years (at only 150 people per year) to work through. People have already lost more than nine years of their lives. A total of 450 people will be resettled in New Zealand. It is estimated that approximately 500 people will be left without access to resettlement.

Recommendations:

- 1. Immediately bring all the people left behind in PNG and Nauru here for urgent medical assessments and treatment, allowing them to live in the community while they await resettlement.**
- 2. Call an amnesty for people who have not been provided with third country resettlement, allowing them to settle here if they wish to.**

People who have been failed by the flawed “Fast Track” refugee assessment system (or were assessed under LNP government direction just prior to Fast Track being implemented).

- Many people should have been granted refugee status, but their applications were rejected due to:
 - The LNP’s misguided idea that people can safely relocate to other parts of their home countries (e.g. Afghanistan despite well-documented widespread violence and unrest).
 - The LNP’s insistence that Sri Lanka is now safe for Tamil people despite all the evidence to the contrary presented in international human rights reports.

- People being expected to provide evidence which either does not exist or is impossible to obtain (e.g. a document from police or military stating that the person was taken into custody and tortured).
 - People being unable to afford/access appropriate, skilled legal assistance (as appeared to be the case with the Biloela family).
- Many people (including more than 100 people in the Geelong region who we know of) are stuck in the lengthy, expensive and very limited court process.
 - There is such a long wait time for the Federal Circuit Court that many people still have no court date years after lodging court applications.
 - Cases are being won in court (or conceded by Home Affairs before the hearing) and sent back to the Immigration Assessment Authority (IAA) for review, only to have the IAA reject them all over again. People have no option but to submit yet another appeal. The Federal Circuit Court application fee alone is now approximately \$3,600, up from around \$700, due to an increase by the Morrison Government.
 - People in this situation have no access to income support.
 - People in this situation must repeatedly submit reapplications for Medicare.
- Others are on Departure Pending Visas
 - They have exhausted all avenues of the very limited appeal process, or have been denied access to them at all.
 - Ministerial Intervention Requests were consistently rejected by the previous government for people who arrived by boat to seek safety.
 - People in this situation have no access to income support, and an enormous fear of being returned.
 - They must repeatedly reapply for very short-term visas, work rights and Medicare (which is both exhausting for them and involves unnecessary government expenditure).
- People who haven't been issued further visas at all.
 - These people have no income support, work rights nor Medicare.
 - The fact that they have chosen to remain here in this situation after around ten years, often separated from family, surely indicates that their homelands are not safe for them.
 - They have enormous fear of being returned to danger at any moment.

Recommendations:

- 1. Deportations must be ceased while urgent review of these cases is undertaken, including reviewing previously rejected Ministerial Intervention applications, and**
- 2. The Kaldor Centre for Refugee Law's recommendation¹, to provide Status Resolution for these people rather than persist with the costly (to both individuals and to government) court process, should be adopted and implemented. People have been held in uncertainty and fear, separated from family, for around ten years.**

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https://www.kaldorcentre.unsw.edu.au/sites/kaldorcentre.unsw.edu.au/files/Policy_Brief_13_Temporary_Protection_Visas_Australia_Reform_Proposal.pdf

People on Temporary Protection Visas (TPVs) and Safe Haven Enterprise Visas (SHEVs)

- This cohort of people have been held in uncertainty and separated from immediate family members (who are usually in situations of danger), despite being found to be refugees in need of protection.
- They are unable to move on with their lives as they must continue to apply for refuge every time their three or five year visas expire.
- This situation has a very negative impact on their mental health, which often flows on to impacting on physical health.
- There is also an impact on the economy both in terms of reduced productivity, and as people send most of their income to their homeland rather than spending it here.
- People have no pathway to citizenship and are unable to access tertiary study without paying international student fees.
- Travel permission has been granted to these people in the past to meet their families in safe third countries. Travel was denied during Covid restrictions, but Home Affairs is still refusing travel permission applications now.

Recommendations:

- 1. Home Affairs should provide immediate assurance to people with TPVs and SHEVs that they will be granted permanent visas under Labor policy, and to provide them with information on the expected process and timelines.**
- 2. The transition to permanent visas should occur quickly, to give people hope and so that people will be eligible for citizenship during this term of government.**
- 3. Transition to permanent visas should not require further assessment of protection claims.**
- 4. Grant travel permission for people on TPVs and SHEVs during this transition time, so that people can see their families in safe third countries where possible, while waiting for permanency.**
- 5. The Ministerial Direction which effectively banned family reunion for people who arrived by boat must be lifted.**

Immigration Detention Centres

- There is an abundance of evidence that indefinite detention severely negatively affects the physical and mental health of people in detention. Many refugees and people seeking asylum have had traumatic experiences in their home countries, and in transit, and so are more vulnerable to developing mental health issues. Indefinite detention and inadequate healthcare in detention exacerbates these issues.
- The average time of immigration detention has blown out in recent years to 700 days (from around 80 – 120 days throughout 2013)². This compares with about 55 days in the United States and 14 days in Canada.³

² <https://www.homeaffairs.gov.au/research-and-statistics/statistics/visa-statistics/live/immigration-detention>

³ <https://www.kaldorcentre.unsw.edu.au/news/human-rights-groups-call-end-arbitrary-and-indefinite-detention>

- As of 31 January 2021, over 120 people were in immigration detention for five years or more, with several having spent more than ten years in detention.⁴
- Arbitrary, indefinite detention contravenes numerous international agreements, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Convention on the Rights of the Child, which Australia has signed.
- The Policy Platform of the current Labor Government states that⁵:
 - Labor will legislate to enshrine our international obligations into Australian domestic law
 - Detention that is indefinite or otherwise arbitrary is not acceptable
 - Detention is only to be used as a last resort and for the shortest practicable time. Labor will strive to ensure that detention is for no longer than 90 days.
 - The length and conditions of detention, including the services provided, will be subject to regular review
 - All government involvement in detention facilities is subject to transparent, independent oversight
 - Conditions of detention will ensure the inherent dignity and safety of the human person

Recommendations:

- 1. Policies and practices of arbitrary, indefinite detention must be ended, and time limits for immigration detention must be legislated.**
- 2. Immigration detention must only be used as a last resort, and for the shortest practicable time.**
- 3. Conditions in immigration detention centres must ensure that people are treated with humanity, dignity and respect. Access to activities and services to support wellbeing, and appropriate and timely medical and mental health care, must be provided.**
- 4. Immigration detention centres must be subject to transparent independent oversight and regular review.**
- 5. Australia is responsible for protecting refugees under international law. Paying other, much poorer, countries to detain our asylum seekers, in extremely poor conditions where they are vulnerable to abuse, is unacceptable and an exceedingly expensive misuse of government funds. Offshore detention must be ended.**

⁴ <https://www.refugeecouncil.org.au/detention-australia-statistics/5/>

⁵ <https://alp.org.au/media/2594/2021-alp-national-platform-final-endorsed-platform.pdf> (pages 119-128)

Home Affairs Department

- Home Affairs is continuing to take a punitive approach toward people who sought refuge by boat, despite the change of government.
- People we are in regular contact with have had their travel permission denied; have received “Robodebt” type letters for so-called previous Status Resolution Support Services over-payments; and have received phone calls from Case Officers people to tell them to return to home countries despite being assessed as refugees in genuine need of protection from those homelands.
- Home Affairs continues to erroneously use of the word “illegal” or “unlawful” in relation to people who arrived by boat to seek safety.
- Home Affairs and Immigration staff and processes appear to be still operating under LNP policy, directives and ideology.

Recommendations:

- 1. The Department of Home Affairs needs an urgent reset of culture, language, procedures and leadership.**
- 2. Services and processes regarding refugees should be separated out from the Department of Home Affairs. It would be kinder and more humanising for refugee matters to be handled by a Department for Immigration, Citizenship and Multicultural Affairs, the way they were under previous Labor governments. Refugees are people who need safety and security, not a national security issue.**

Refugee Intake

- Australia’s refugee intake has fallen below the current low quotas.
- Thousands of applications from Afghanistan (Special In-Country Humanitarian Visas) have been received by Home Affairs since the fall of Kabul to the Taliban.
- Approximately 12,000 – 14,000 people are registered with UNHCR in Indonesia and have been stranded there for years since Tony Abbott placed a ban on UNHCR referrals from Indonesia

Recommendations:

- 1. Increase Australia’s refugee intake as quickly as possible.**
- 2. Urgently assess the Afghan applications already received, which are largely for family members of people already in Australia, and provide humanitarian places.**
- 3. Work with Indonesia, and other transit countries in our region, to provide timely resettlement for refugees so that people do not need to get on boats.**

Citizenship

- Thousands of applications for citizenship, from people who came by boat prior to 2013, were not processed by previous government. This includes the applications of many people who live in the Geelong region. We know people who have been waiting for years for citizenship.

Recommendation:

- 1. Urgently process these applications so that people have a sense of belonging and of being Australian.**