



GIVE THEM A FUTURE!

CAMPAIGN FOR PERMANENT VISAS FOR REFUGEES LIVING IN AUSTRALIA ON TEMPORARY PROTECTION VISAS OR SAFE HAVEN ENTERPRISE VISAS

Many Australians are deeply concerned about the wellbeing of refugees living in Australia on Temporary Protection Visas (TPV -3 years) or Safe Haven Enterprise Visas (SHEV -5 years). These visas are not permanent protection visas. They place refugees in a continual state of extreme stress, fearing that they may eventually be returned to the country from which they fled persecution. This cohort is grossly discriminated against by the Federal Government on the grounds they had arrived by boat. This ignores the rights of refugees under international law.

We request the Federal Government and all politicians to adopt a unified approach to transitioning refugees on Temporary Protection Visas or Safe Haven Enterprise Visas to Permanent Protection Visas as quickly as possible. It is in the best interest for ensuring a cohesive, strong, and safe nation.

Background Information - Issues and concerns:

- **The 'Legacy Caseload'**

Approximately 30,000 people seeking asylum arrived in Australia by boat between 13th August 2012 and 1st January 2014. They were barred by the Australian Government from making an application for protection for up to 4 years. During that time, they were given Bridging Visa E, initially with 'No Work Rights'. Finally, the Government slowly invited applicants to submit their claims under a new refugee claims process known as the 'Fast Track Process.'

There are also people who came to Australia by boat before 13th August 2012, who did not have their protection visa application finalised by 18 September 2013. These people are assessed under the old refugee claims process.

These two groups – approx. 31,000 in total, are referred to by the Department as the 'Legacy Caseload'.

- **Asylum seekers in the 'Legacy Caseload' are not eligible for permanent protection visas.** Instead, they are limited to making applications for a three-year Temporary Protection Visa (TPV) or a five-year Safe Haven Enterprise Visa (SHEV). They will need to reapply before their visa ends and prove their refugee status all over again. Reliving their traumatic experiences causes huge mental distress. The cost for professional legal assistance with protection claim applications places a significant burden on them.
- **By 3rd August 2020, 17643 people in the Legacy Caseload had been recognized as Convention refugees and granted temporary protection visas. (12,034 SHEV; 5609 TPV).** 8341 people had been refused, with many of those refused now in an Appeals process. Approximately 5000 people were still awaiting their application interviews or results.
- **NSW and Victoria** have the largest number of temporary protection visa holders.
- **Refugees on Temporary Protection Visas (3 years) and Safe Haven Enterprise Visas (5 years)** do not have the same access to services, rights, and residency or citizenship pathways as refugees who hold a Permanent Protection Visa.
- **Current policy denies refugees on SHEVs or TPVs the right to be reunited with family members. UNHCR has described these conditions as 'punitive' and noted their damaging effect on asylum seekers' mental health.**
- **The key difference between asylum seekers' eligibility for permanent protection visas or temporary protection visas** is their method of arrival in Australia, not the merit of their protection claims.
- **Under international law people have a right to seek asylum and not be penalised for their mode of entry.**

- **Refugees with temporary protection** are placed in a state of ongoing legal limbo, faced with the prospect that they might be sent back to a country where they fear persecution.
- **Studies by mental health experts** have found that refugees on TPVs experience higher levels of anxiety, depression and post-traumatic stress disorder when compared to permanent protection visa holders, despite similar backgrounds and experiences. These impacts can be exacerbated by the inability of refugees on TPVs (3 years) or SHEVs (5 years) to be reunited with their families. These visas can also have the effect of separating children from their parents and family for long, and potentially indefinite, periods of time.
- **SHEV holders** who, for at least 3 and a half years of the five years, have engaged in regional employment without depending on social security benefits or have engaged in full-time study in regional Australia or both, will be eligible to apply for standard onshore migration visas that may give rise to permanent residence, but there is no guarantee their application will be successful.
- **Refugees are not migrants** and should not be directed into pathways that compete with skilled migrants in order to attain permanent visas. This is an unfair system that sets them up for failure.
- **Under international law**, temporary protection should be an exceptional measure that is generally applied only in situations of mass movements of asylum seekers, when individual refugee status determination is impractical because of those large numbers. By contrast, the Australian temporary protection regime is used to grant protection to asylum seekers who have been individually assessed to be Convention refugees, simply on the basis that they arrived in Australia without a visa.
- **The Australian Temporary Protection Visa regime** has significant implications for Australia's compliance with international law. By creating two classes of refugees – those who come to Australia by boat and those who come by authorised means – the Temporary Protection Visa regime may constitute a breach of the right to non-discrimination.

Strengths refugees bring to our regional and urban communities:

Refugees have often faced challenges that most of us can't even begin to imagine. They bring their resilience, a desire to rebuild their lives in a peaceful and safe environment and to establish strong links with Australian communities. They desperately want to give back and contribute to their new country. Refugees have a strong desire to work and make a valuable contribution to our regional and urban communities, often doing jobs that Australians turn away from. Refugees are not necessarily skilled, but bring with them determination, motivation, cultural diversity, creativity, and a willingness to learn and work hard.

Australians are also suffering from the effects of the temporary protection policy:

Refugees have been welcomed into local communities and befriended by faith groups, community groups, schools, neighbours, employers and fellow employees. Many of those in the 'Legacy Caseload' have been living in our communities for nearly eight years and have become valued people in the fabric of community life. We have been enriched by them. To see our refugee friends' suffering from the effects of the current temporary protection policy, the ongoing uncertainty in their lives, separation from family and their increasing depression, has affected Australians greatly too. There is no benefit to anyone – Australians or refugees - in continuing this punitive policy of suffering. This policy weakens our society.

Refugees on SHEVs (5 years) or TPVs (3 years) have been living in Australian communities for nearly eight years. They are not a threat to our communities or our national security. Their Convention Refugee Status has been recognized under the Federal Government's own Fast Track process and they have proved their ability to work and settle and become valued people in Australia's urban and regional communities.

References: <https://www.refugeecouncil.org.au/fast-tracking-statistics/>
<https://www.kaldorcentre.unsw.edu.au/publication/legacy-caseload>
https://www.kaldorcentre.unsw.edu.au/sites/default/files/Research%20Brief_TP_V_SHEV_Aug2018.pdf
<https://www.humanrights.gov.au/our-work/publications> © Australian Human Rights Commission 2019. Lives on hold: Refugees and asylum seekers in the 'Legacy Caseload' • 2019. ISBN 978-1-925917-06-2