

A meaningful pathway to permanency and family reunion for all people seeking asylum

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The Australian Government's announcement in February 2023 granting a permanent visa pathway for 19,000 refugees on a Temporary Protection Visa (TPV) or Safe Haven Enterprise Visa (SHEV) is to be applauded. This policy change is of profound importance to so many who have been living and working in our communities for a decade or more.

However, once granted a permanent visa, many will still face barriers in reuniting with their families. There are also thousands of other people seeking asylum in Australia who remain without any pathway to permanency or family reunion after a decade or more due to the unfair "Fast Track" protection process, or because they were forced to spend years in brutal conditions on Nauru and Manus Island.

The Australian Government needs to finish the job of ensuring all people seeking asylum who came by boat a decade or more ago have a meaningful pathway to permanency and family reunion.

Refugees need to reunite with family as soon as possible

While the Australian Government has made the very welcome policy change to allow 19,000 refugees on a TPV or SHEV to get a permanent visa, it is concerning that the only way they will be able to try to reunite with their families is through the partner visa stream.ⁱ This process is complex, extremely expensive, and the definition of 'member of the family unit' is too narrow. There is also a large backlog of applications already in this visa stream.

Changes to the partner and child visa criteria and process are urgently needed to ensure that people who have lived without their families for a decade or more are able to be reunited as soon as possible. This includes:

- Providing free legal assistance to people in financial hardship to apply for family reunion.
- Broadening the definition of a 'member of a family unit' (in recognition that TPV/SHEV holders have been here for a decade and some of their children may no longer be considered "dependent" under current legislation).
- Making changes to the Child visa which currently require any dependent child over 18 to be in full time study.
- Reducing the fees charged for Partner visas.
- Reducing onerous requirements regarding evidence of relationships given that families have been separated for years.ⁱⁱ

Others subjected to "Fast Track" also need a meaningful pathway to permanency

It is commendable that the Australian Government has decided to abolish the Administrative Appeals Tribunal as part of its commitment to ensuring a fairer protection process. However, it is concerning that the "Fast Track" protection process, that 31,000 people seeking asylum in Australia were subjected to, remains in place. This means there is no meaningful pathway to permanency for some 10,000 people who have been refused protection through this extremely complicated and confusing process.

Many people were forced to complete the protection visa application process without a lawyer as most were denied access to funded legal assistance and could not afford the legal fees. This is because during their first few years after arrival, no one was allowed to work.

Those who were refused protection are forced to continue in an unfair process that provides no independent review of the merits of their protection claim decision. Many have spent thousands of dollars on trying to appeal to the courts, but the grounds for appeal are extremely narrow and the outcome can take years.

There are people in this situation who currently do not have the right to work. They also do not have access to welfare assistance which places an enormous burden on their friends and refugee support agencies to pay their rent and buy food.

Others with the right to work have been working and paying tax for years but have faced great challenges in accessing secure employment while on a temporary bridging visa. Many have sought after skills in areas such as construction, aged care, hospitality and IT.

“Fast Track” must be reviewed as a matter of urgency and a meaningful pathway to permanency provided. The Australian Labor Party rightly criticised the “Fast Track” process as unfair and has committed to reviewing this process. Steps could include:

- Granting work rights to all people seeking asylum on a Bridging visa E.
- Re-assessing the protection claims of people subjected to the “Fast Track” process who are from countries where there have been significant changes in country circumstances, such as Afghanistan, Myanmar, Iran and Sudan, and Sri Lanka where country information relied upon by the department is outdated.
- Allowing people who have married an Australian citizen or had children in Australia to apply for a Partner visa.
- Allowing people with other exceptional circumstances to be granted a permanent visa (such as people who arrived to Australia as a child; those who have been working or running a business in Australia for years; and those with significant mental or physical health issues or have suffered significant personal losses in Australia).ⁱⁱⁱ

All refugees and people seeking asylum who were detained on Nauru or Manus Island need a meaningful pathway to permanency

There are still 80 refugees and people seeking asylum who remain in Papua New Guinea, and more than 1,000 who have been brought to Australia from Nauru and PNG for medical assistance but have not been resettled. Their dreadful ordeal must end.

Some have been living in Australia for seven or more years where they have been working or running businesses and their children are going to school. They too live on temporary bridging visas. **The Australian Government must resettle them as a matter of urgency.** This must include:

- Bringing to Australia the remaining people in PNG who wish to come.
- Allowing those in Australia who wish to remain here to apply for a permanent visa.

ⁱ People who arrived by boat are unable to propose family members via the Humanitarian program.

ⁱⁱ For more information, see SCALES (2023) *Family Separation and Family Reunion for Refugees: A Reform Proposal*. https://apo.org.au/sites/default/files/resource-files/2023-06/apo-nid323241_1.pdf; NSW Council of Civil Liberties (2021) ‘NSWCCL calls on DFAT to retract Sri Lanka report’ <https://www.nswccl.org.au/dfat>

ⁱⁱⁱ For more information, see Kaldor Centre for International Refugee Law (2023) *Policy Brief Addendum to Temporary Protection Visas in Australia: A Reform Proposal*.