

Dear elected representative

As the largest provider of services to asylum seekers in Australia, the Asylum Seeker Resource Centre (ASRC) watched the election with great interest. As you know, the issue of asylum seekers has become a hotly debated topic over the past decades and now features as a major election issue.

The ASRC is deeply concerned with the direction of Australia's asylum seeker policy and is disturbed with the policies proposed by the new Coalition Government. Many of the proposed changes will require legislative support (such as reintroduction of Temporary Protection Visas and removing the right to appeal). We are appealing to you, as an elected representative of the Australian people, to vote against these punitive changes to ensure the human rights of asylum seekers are not breached.

We are asking you to use your voice to represent the voices of asylum seekers who exert their legal human right by seeking protection in Australia and rejecting the below policy and legislative changes proposed by the Government.

Right to Appeal

Asylum seekers must be given the opportunity to appeal decisions to an independent administrative body such as the Refugee Review Tribunal or the Administrative Appeals Tribunal. 80% of protection visa refusals are overturned on appeal¹ highlighting the need for independent review to "correct incorrect decision the consequence of which is the difference between life and death"². This independent process is a safeguard that is necessary to ensure Australia upholds its obligations under international law to not send back refugees to countries where they will be persecuted.

The Refugee Review Tribunal was created to ease the burden on the High Court of Australia, which originally heard all of these types of appeals. Abolishing the review process will have the undesirable effect of burdening the Federal Court or High Court of Australia, which is the very reason the Refugee Review Tribunal was created.

In 2009, the government in Greece introduced Presidential decree 81/2009 which abolished appeals³ to the Appeals Board allowing only for limited judicial review by the Council of State. This decision was criticized by the 2009 UNHCR Report on Greece describing the measure as 'jeopardizing the right to an effective remedy'⁴. The backlog of unprocessed claims of appeal that can now only be heard by the Council of State stood at 42,700 cases in 2009. It is imperative that Australia ensures independent review mechanisms such as the right to appeal to the Refugee Review Tribunal is kept to ensure the court system is not overwhelmed by appeals, as is the case in Greece, and to ensure that we do not breach our obligation to not send back genuine refugees to face persecution. We would be the only country in the developed world that denies the right to appeal to asylum seekers, making us an international pariah.

¹ Quote from Daniel Webb, director of legal advocacy at the Human Rights Law Centre
<http://www.hrlc.org.au/screening-out-asylum-seekers-undermines-the-rule-of-law-and-risks-returning-people-to-face-torture>

²<http://www.sbs.com.au/podcasts/Podcasts/radionews/episode/283363/Lawyers-and-advocates-hit-Coalition-asylum-plan>

³ <http://www.hrw.org/news/2009/07/31/greeces-refugee-problem>

⁴Office of the High Commission for Refugees, 'Observations on Greece as a country of asylum' 2009, pg. 16-17
<http://www.unhcr.gr/fileadmin/Greece/General/Greece/Observations2009EN.pdf>,

Temporary Protection Visa

Temporary Protection Visas (TPVs) should not be reintroduced because they are not an effective deterrent and inflict further damage and trauma on asylum seekers. On October 18, the Coalition re-introduced Temporary Protection Visas, however this will need to go through Parliament.

When TPVs were introduced in 1999, there was a five-fold increase over a two-year period in the amount of asylum seekers arriving by boat (from 1,953 to 10,217)⁵ *despite* TPVs being designed to deter asylum seekers from arriving by boat. TPVs do not deter asylum seekers arriving by boat. Of the 11,206 asylum seekers granted TPV's between 1999 and 2007, 96.6% ended up becoming permanent Australian residents (<http://www.crikey.com.au/2011/09/06/what-happened-as-a-result-of-tpvs-and-the-pacific-solution/>).

TPVs seek to further isolate asylum seekers by denying them access to programs such as English Language education, which are essential to ensure that asylum seekers can integrate and play an active role in the Australian community. By not providing access to such programs TPVs shift the burden of supporting refugees onto the community and the charity sector who are under resourced and not as well-equipped as the government are to assist refugees integrating into the Australia community.

Furthermore, TPVs are counterproductive to the goal of stopping asylum seekers dying at sea. Under the TPV system, refugees are denied permission to apply for family reunification for family members overseas. In 2001, 288 of the 353 people aboard the SIEV X who drowned, primarily women and children, were family members of refugees on TPVs⁶. By taking away the right to apply for family reunification, family members of TPV holders may feel their only option is to travel to Australia by boat, resulting in more lives lost at sea. If the government/opposition is serious about stopping such tragedies they must consider the practical impacts of TPVs on refugees, TPV holders' family members and the Australian community.

Humanitarian Intake

A key part of the Coalition's proposed refugee platform is to reduce the Humanitarian Intake from the current 20,000 places down to 13,750 with no places for people who arrive by boat. This is in contrast to Labor's pre-election plan to increase the intake to 27,000 – which had been in response to the Huston Expert Panel Recommendations.ⁱ

The Government's planned reduction in Humanitarian Intake places has occurred in the setting of a dramatic upswing in the numbers of people across the world forcibly displaced from their homes over the last few years. There were 15.2 million refugees under UNHCR mandate in 2012. Of these, 6.5 million refugees were in protracted situations –waiting at least five years or more for placement.ⁱⁱ The numbers above don't yet include the 2.25 million refugees who have so far been forced to flee Syria and have an uncertain timetable for return.ⁱⁱⁱ

While the international situation pressure A significant proportion of people in protracted situations are in or our Asia Pacific region including in Malaysia and Thailand. Of those waiting in Malaysia, it's estimated that to even register as a refugee with the UNHCR takes two years for an initial interview.^{iv}

⁵ http://www.refugeecouncil.org.au/r/pb/PB1324_TPVs.pdf

⁶ http://www.asrc.org.au/wp-content/uploads/2013/07/Temporary_Protection_Visas_sept13.pdf

The ASRC maintains we should consider both our international responsibilities and the proven benefits that these future Australians will bring our nation - and increase its Humanitarian Intake to 27,000 places.

The Right to Work

It's in the nation's interest that residents are able to engage and contribute productively to society.

The ASRC's position is that people seeking asylum should have access to the right to work regardless of geographical location and that they should have access to fair rates of welfare assistance when not able to work. Preventing people access to paid employment or ordering them to work away from their independent family and community supports, increases their detachment and alienation from society. It also leads to a loss of skills and entrenches welfare dependency and a cycle of poverty.

Under the 'No Advantage' policy, the previous Labor government denied the right to work to people on Bridging Visas who had arrived by boat after August 12th last year. We now have 22,297 people in the community without the right to work and will spend a minimum of 249 million dollars in 2014 on welfare payments on people who want to work & have valuable skills and experience to contribute to our economy. The new Coalition government's platform is that the unprocessed backlog of people arriving by boat will be rapidly assessed, and if granted a Temporary Protection Visa (TPV) will have qualified access to work rights. Access to work rights may be restricted to directing people to work in specific geographic locations. If unable to work for whatever reason, TPV holders will have access to a welfare benefits under a 'Work for the Dole' or equivalent mandatory mutual obligation scheme. The Coalition has not yet made it clear whether they will provide access to work rights to asylum seekers currently on Bridging Visas.^v

Please feel free to contact us at any time with any further questions. We thank you for your time and hope you will stand with us to defend the rights of asylum seekers.

Yours faithfully
Kon Karapangiotidis OAM
ASRC CEO

ⁱ <http://expertpanelonasylumseekers.dpmc.gov.au/>

ⁱⁱ <http://unhcr.org/globaltrends/june2013/>

ⁱⁱⁱ <http://data.unhcr.org/syrianrefugees/syria.php>

^{iv} http://www.refugeecouncil.org.au/n/mr/130930_ExCom.pdf

^v <http://refugeecouncil.org.au/r/rpt/2013election.pdf>