

Introduction

Founded in 2001, the Asylum Seeker Resource Centre (ASRC) provides essential services to 7,000 people seeking asylum and refugees in the community in Victoria, in detention nationally, and held offshore. Our services include legal, casework, housing, medical, education, employment and emergency relief. Based on what we witness through our service delivery, we advocate for change alongside refugees to ensure their rights are met and they can live in safety and with dignity.

The ASRC welcomes the opportunity to contribute to the Department of Home Affairs' (Department) consultation on the management and composition of Australia's Humanitarian Program 2024-25.

Australia has the ability to become a regional and international leader in its humanitarian program and successfully resettle refugees in the community. If the Albanese Government wants to establish a world-leading and successful humanitarian settlement system, it must welcome more refugees and ensure that the humanitarian program and refugee status determination is fair, efficient and humane.

The low humanitarian intake over successive years is not an isolated flaw of Australia's humanitarian program - it is emblematic of systemic failures that include protracted delays, unfair visa processing and offshore detention. Increasing the humanitarian intake and ensuring that people seeking asylum have access to their rights while in the community is essential for the successful management and composition of Australia's humanitarian program.

Recommendations

Recommendation 1: Immediately increase Australia's humanitarian intake to at least 27,000, and an additional 5,000 places through community sponsor programs.

Recommendation 2: Provide additional humanitarian intakes when global humanitarian emergencies emerge in a consistent, fair and humane manner.

Recommendation 3: Delink the target for the offshore humanitarian intake from the onshore humanitarian intake and ensure there is no target/ceiling for the onshore humanitarian intake.

Recommendation 4: Reintroduce 'the 90-day rule' requiring that refugee status determinations are concluded in a fair manner within 90 days from the time of application.

Recommendation 5: Ensure the entire humanitarian visa process is adequately funded and staffed by people with the requisite skills and experience.

Recommendation 6: Review and publish data on the effectiveness of existing government-funded legal representation for people seeking asylum.

Recommendation 7: Ensure that all people seeking asylum, particularly those in immigration detention, have free legal advice throughout the refugee status determination process, including merits review and judicial review stages.

Recommendation 8: Provide ongoing work rights and study rights for people seeking asylum on bridging visas for the duration of their protection visa application process, including merits review and judicial review stages.

Recommendation 9: Immediately expand eligibility to Status Resolution Support Services.

Recommendation 10: Provide people seeking asylum access to mainstream social support services, including Centrelink programs such as Special Benefit, for the duration of their protection visa application process, including merits review and judicial review stages.

Recommendation 11: Provide permanent residency to all people seeking asylum subjected to the unfair Fast Track process.

Recommendation 12: Abolish temporary protection visas.

Recommendation 13: Offer all people currently held offshore in PNG evacuation to Australia.

Recommendation 14: Provide clear, fair and humane resettlement pathways for all people subjected to offshore detention.

Recommendation 15: End offshore processing in Nauru and transfer all people seeking asylum and refugees to Australia.

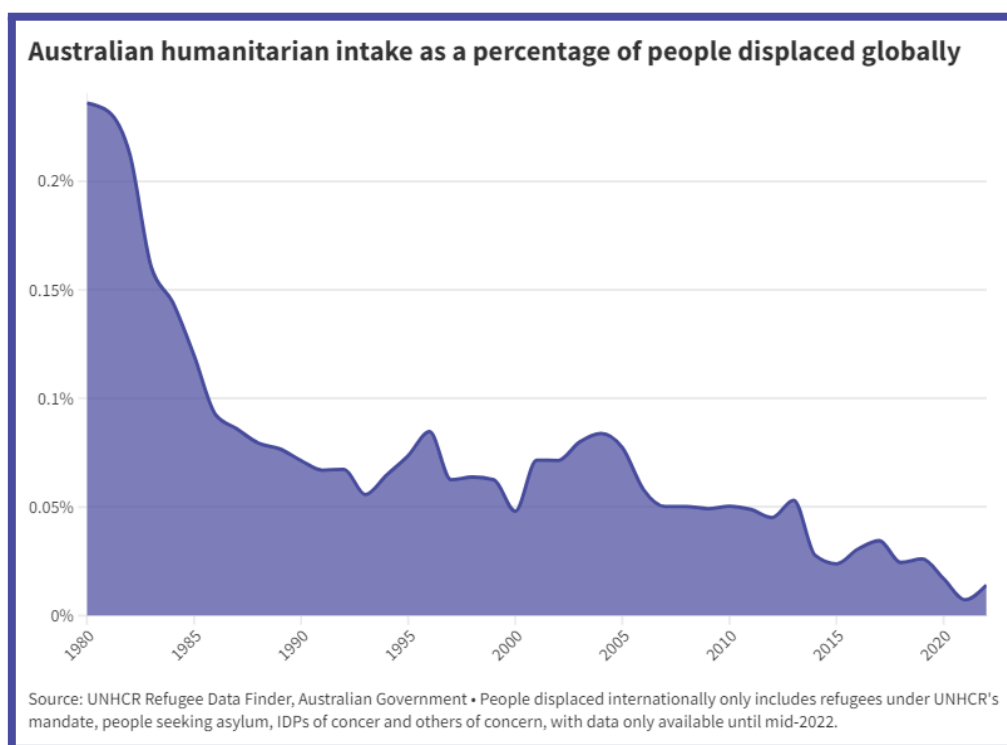
Humanitarian intake

Increase humanitarian intake

There must be an immediate increase in Australia’s humanitarian intake. Despite sustained widespread community support for this to occur, including the 2023-24 Department Humanitarian Program consultations,¹ the most recent Federal Budget maintained the humanitarian intake at 20,000 places, which was the level set in 2023-24.²

The lack of an increase in the humanitarian intake is contrary to the ALP National Platform, which aspires to increase Australia’s government-funded humanitarian intake to 27,000 places per year.³ The Albanese Government has been in power for over two years and has introduced two budgets, yet has not fulfilled its policy platform, despite the clear need and public support. Further, the increase to 27,000 humanitarian places is modest compared to countries such as Canada, which resettled more than 51,000 refugees in 2023.⁴

The stagnation in Australia’s humanitarian intake occurs while the number of people displaced globally is over 117 million.⁵ As the graph below demonstrates, Australia’s humanitarian intake has failed to keep pace with the number of people in need of safety and protection.



¹ Department of Home Affairs, Summary of Responses to the Consultations on the 2023-24 Humanitarian Program, 2023, <https://www.homeaffairs.gov.au/reports-and-pubs/files/summary-of-the-22-23-humanitarian-program-consultations.pdf>.

² Refugee Council of Australia, 2024-25 Federal Budget: What is means for refugees and people seeking humanitarian protection, May 2024, <https://www.refugeecouncil.org.au/wp-content/uploads/2024/05/2024-25-Budget-summary-Refugee-Council.pdf> (Refugee Council 2024-25 Budget Analysis).

³ Australian Labor Party, ALP National Platform - As determined by the 49th National Conference, 2023, p 141.

⁴ Refugee Council of Australia, *Refugees Protected in Australia at 7-Year High, UNHCR Data Shows*, 19 June 2024, <https://www.refugeecouncil.org.au/refugees-protected-in-australia-2023/>.

⁵ Ibid.

While it is positive that the Albanese Government will continue its investment in the Community Refugee Integration and Settlement Pilot (CRISP) by \$1 million until June 2026,⁶ the recent Federal Budget provides no guarantee this program will continue beyond this date. In addition, community sponsorship programs should be additional to the main humanitarian intake program, which is consistent with ALP's Platform and its position to "increase the complementary resettlement intake to 10,000 places per year".⁷

Recommendation 1: Immediately increase Australia's humanitarian intake to at least 27,000, and an additional 5,000 places through community sponsor programs.

Additional intakes for global emergencies

As crises continue to occur in Sudan, Myanmar and Gaza, Australia cannot continue its ad hoc and arbitrary approach to international emergencies. There must be consistent, fair and humane responses to humanitarian emergencies as they occur, which include providing additional humanitarian intake.

The Australian Government's response to the crises in Afghanistan and Ukraine demonstrates that its current approach is not consistent and does not meet its global responsibility to respond during international emergencies. In March 2022, the Morrison Government committed to an additional 4,125 visas for people from Afghanistan every year for 4 years. This was a welcome announcement; however, it was, and remains, below the immediate 20,000 additional places called for by the community.⁸

Additionally, this limited intake for people from Afghanistan does not respond to the scale of the humanitarian crisis. In 2020-21, less than 10% of offshore humanitarian visa applications were by people from Afghanistan, however in 2021-22 it increased to 83%.⁹ Between August 2021 and December 2023, over 220,000 people from Afghanistan applied for offshore humanitarian visas.¹⁰ Despite the demand for Australia to meet its international and moral obligations to the people of Afghanistan, only 6,935 people from Afghanistan were granted offshore humanitarian visas in 2022-23.¹¹

Australia also fell short when compared to other countries' responses after the fall of Kabul, with Canada granting an additional 40,000 humanitarian visas and the US offering close to 100,000 humanitarian visas for people from Afghanistan.¹²

⁶ See n2, Refugee Council 2024-25 Budget Analysis.

⁷ Australian Labor Party, ALP National Platform - As determined by the 49th National Conference, 2023, p 138.

⁸ Action for Afghanistan, Open Letter, 2022, <https://www.actionforafghanistan.com.au/open-letter>.

⁹ Department of Home Affairs, Australia's Offshore Humanitarian Program: 2021-22, 2022, <https://www.homeaffairs.gov.au/research-and-stats/files/australia-offshore-humanitarian-program-2021-22.pdf>.

¹⁰ Department of Home Affairs, Afghanistan update, 2023, <https://www.homeaffairs.gov.au/help-and-support/afghanistan-update>.

¹¹ Department of Home Affairs, Australia's Offshore Humanitarian Program: 2022-23, 2023, <https://www.homeaffairs.gov.au/research-and-stats/files/australias-ohp-2022-23.pdf>.

¹² The Lowy Institute, Where did the Afghan refugees go – and where next?, November 2023, <https://www.loyyinstitute.org/the-interpreter/where-did-afghan-refugees-go-where-next>.

There was a stark difference in Australia's response to the war in Ukraine. Within a month of Russia's invasion of Ukraine, the Morrison Government issued Temporary Humanitarian Concern visas (subclass 786) to people fleeing the war, allowing people to work, study, access mainstream social support and Medicare, amongst other supports. While this offer ended on 31 July 2022, it was an example of an effective, humane and fair response to people fleeing persecution and war. In addition, the Morrison Government issued many tourist visas to people from Ukraine enabling them to travel to Australia to then seek asylum. Since February 2022, the Government has granted over 11,500 visas to Ukrainian nationals in Ukraine.¹³

Australia must not continue its arbitrary approach to international emergencies. The humanitarian program must allow for greater flexibility for Australia to provide additional humanitarian intakes to respond to global emergencies, and additional intakes should be implemented on a consistent basis.

Recommendation 2: Provide additional humanitarian intakes when global humanitarian emergencies emerge in a consistent, fair and humane manner.

Delinking onshore and offshore

There is an artificial linking of the onshore and offshore humanitarian intake that undermines Australia's ability to respond to international crises in a timely manner and provide a fair system for people seeking asylum in the community. For several years, the Government has implemented a predetermined cap on onshore protection visas – 1,650 visas from 2018, 2,000 visas in 2023/24, and 3,000 visas predicted for this year.¹⁴ This increase in onshore protection visas continues to reduce the number of refugees being resettled from overseas and prevents Australia from meeting its responsibility to the global community.

Additionally, with over 75,000 people currently seeking asylum in Australia,¹⁵ 3,000 places for onshore protection visas is an arbitrary and inadequate response, which exacerbates processing delays and creates devastating impacts for people seeking asylum who are living in constant uncertainty. The Albanese Government cannot meaningfully address the lengthy delays in visa processing faced by people seeking asylum while maintaining this policy.

Recommendation 3: Delink the target for the offshore humanitarian intake from the onshore humanitarian intake and ensure there is no target/ceiling for the onshore humanitarian intake.

¹³ Department of Home Affairs, Ukraine visa support, March 2024, <https://www.homeaffairs.gov.au/help-and-support/ukraine-visa-support>.

¹⁴ Refugee Council of Australia, Key Points on Australia's Humanitarian Program 2024-25 Discussion Paper, June 2024, <https://www.refugeecouncil.org.au/key-points-2024-25-humanitarian-program/>.

¹⁵ This figure includes protection visa applications on foot before the Department, review applications before the AAT and judicial review applications before the Courts. See Refugee Council of Australia, Statistics on people seeking asylum in the community - Delays and what happens to them, 31 May 2024, <https://www.refugeecouncil.org.au/asylum-community/5/>; Administrative Appeals Tribunal, MRD refugee caseload summary by country of reference, 30 April 2024, <https://www.aat.gov.au/AAT/media/AAT/Files/Statistics/MRD-refugee-caseload-by-country-2023-24.pdf>.

Fair and efficient humanitarian visa processing

People seeking asylum are waiting years for a final protection visa outcome under an opaque and punitive system that prevents people from engaging in society. The humanitarian program must include a fair, efficient and humane refugee status determination process that treats people seeking asylum with dignity and humanity while awaiting their visa outcome.

Inefficient processing system

Over the past decade, there has been a deterioration in Australia's humanitarian visa application processing system. Lack of adequate funding, unmeritorious appointments to the Administrative Appeals Tribunal (AAT) and other policy choices have led to the current crisis in Australia's humanitarian visa application processing system.

People seeking asylum often wait over half a decade for their protection visa application to be processed. For example, in 2018-2019 the average time for the Department to process a Permanent Protection Visa was 334 days; however, by 2022-2023 the delay had more than quadrupled to 1,076 days.¹⁶ While this figure has decreased, it still remains high at 793 days as at March 2023. ASRC's lawyers often witness clients wait over three years for a protection visa applicant to be invited to a Department interview. Even when a person is found to be owed protection, it can take another year for the visa to be granted.

There has been a similar blowout in wait times at the review level. The average wait time at the AAT increased from an average application processing time in the refugee division of 217 days in 2017-18 to 2,278 days in 2023-24.¹⁷ These protracted wait times correlate with previous Federal Government decisions to withdraw funding for legal assistance, as well as making unmeritorious and political appointments.¹⁸

If a person's permanent protection visa application is refused by the Department and AAT, then they must contend with extraordinary delays seeking review before the courts.¹⁹ These delays mean that a person seeking asylum could wait over a decade for a final visa outcome. In stark contrast, Australia's several-year wait times can be compared to Switzerland which in 2019 introduced a new 'asylum procedure' that ensures applications for humanitarian visas are processed within 180 days.²⁰

¹⁶ 2022-23 Budget estimates October and November, Legal and Constitutional Affairs Committee, Home Affairs Portfolio, OBE22-180, 2022,

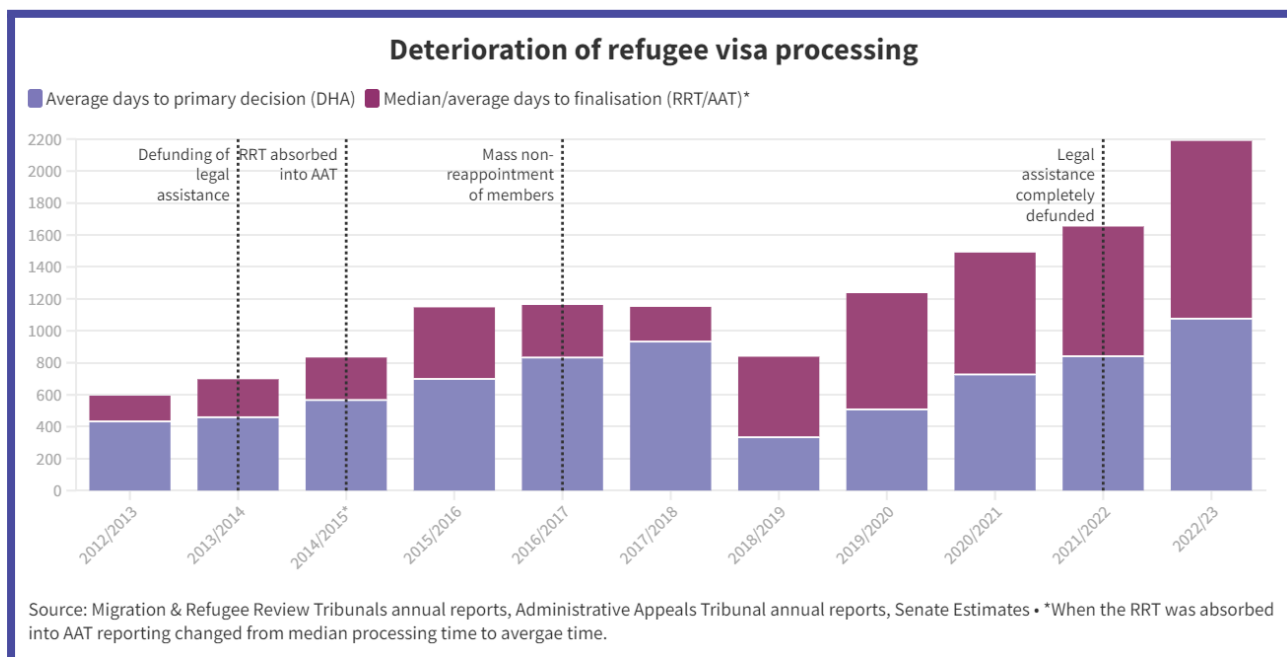
<https://www.aph.gov.au/api/qon/downloadestimatesquestions/EstimatesQuestion-Committeeld6-EstimatesRoundld19-PortfolioId20-QuestionNumber180>.

¹⁷ Administrative Appeals Tribunal, AAT Caseload Report, 2018, <https://www.aat.gov.au/AAT/media/AAT/Files/Statistics/MRD-Detailed-Caseload-Statistics-2017-18.pdf>; Administrative Appeals Tribunal, Migration and Refugee Division processing times, April 2024, <https://www.aat.gov.au/resources/migration-and-refugee-division-processing-times>.

¹⁸ The Australia Institute, Cronyism in appointments to the AAT, 2022, <https://australiainstitute.org.au/report/cronyism-in-appointments-to-the-aat/>.

¹⁹ Migration cases at the Federal Circuit and Family Court of Australia have increased nearly threefold over the last decade from 1,981 in 2012-13 to 5,236 in 2020-21. Generally, applicants seeking judicial review at court of their Protection visa decision wait at least two to three years for their matter to be finalised.

²⁰ The Swiss Refugee Council, The asylum procedure, 2023, <https://www.refugeecouncil.ch/topics/asylum-in-switzerland/the-asylum-procedure>.



The Albanese Government has taken the positive step of abolishing the AAT and commencing the establishment of a new federal administrative review system, the Administrative Review Tribunal (ART), which will address concerns regarding protracted delays and impartiality, including a transparent and merit-based system of appointments.²¹ The ASRC also welcomes the Government’s 2024/25 Budget announcement of a \$854.3 million investment for the roll-out and sustainable operation of the ART. In addition, the re-establishment of the Administrative Review Council to monitor the effectiveness of the ART is a sensible measure to mitigate systemic issues.

In October 2023, the Government announced an investment of \$54 million to establish ‘real-time priority processing’ of Protection visa applications.²² It is yet to be seen whether this investment will be sufficient in improving visa processing and reducing delays. Whilst additional resources will assist with reducing protection visa processing times, it is critical that efficiency does not undermine procedural safeguards to ensure people seeking asylum are provided with a fair opportunity to present their protection claims (such as Department interviews).

However, additional investments will not in themselves resolve the systemic issues in Australia’s refugee status determination. To ensure people seeking asylum have access to a fair and efficient process, clear guidelines regarding timely refugee status determination processing and accountability towards these standards are required for meaningful and lasting change. The ALP’s 2021 platform commits to reintroduce the ‘90 day rule’ into the *Migration Act 1958* (Cth).²³ This time limit is to ensure that all refugee status determinations are concluded within 90 days from the date of application, and acknowledges that reporting on the implementation of the ‘90 day rule’ is an “important accountability measure in ensuring the Government operates in a timely way in assessing protection applications”.²⁴ This legislative standard will reduce the risk of

²¹ *Administrative Review Tribunal Act 2024* (Cth), *Administrative Review Tribunal (Consequential and Transitional Provisions No. 1) Act 2024* (Cth).

²² The Hon Andrew Giles MP, *Restoring integrity to our protection system*, 5 October 2023, <https://minister.homeaffairs.gov.au/AndrewGiles/Pages/restoring-integrity-protection-system.aspx>.

²³ Australian Labor Party, *ALP National Platform - As determined by the 49th National Conference, 2023*, p 141.

²⁴ Australian Labor Party, *ALP National Platform - As Adopted at the 2021 Special Platform Conference, 2021*, p 124.

Australia repeating its past mistakes, and ensure that people seeking asylum have certainty regarding the timeframes for protection visa processing.

Also, it is important that the humanitarian program is not excluded from broader discussions of Australia's migration system. This was seen in the 2023 "Review of the Migration System" report that overlooked the urgent changes needed to ensure a fair and effective humanitarian visa system for people seeking asylum and refugees.²⁵ People seeking asylum and refugees are part of our multicultural community and should not be excluded from essential reforms to the immigration system.

Recommendation 4: Reintroduce 'the 90-day rule' requiring that refugee status determinations are concluded in a fair manner within 90 days from the time of application.

Recommendation 5: Ensure the entire humanitarian visa process is adequately funded and staffed by people with the requisite skills and experience.

Access to government-funded legal representation

The lack of free legal assistance to all people seeking asylum has had a devastating impact on their ability to engage with the complex visa application process and obtain fair outcomes. Expert and accessible legal advice to people seeking asylum improves outcomes and processing at the Department and review stages, including reduced wait times. A person seeking asylum represented by a lawyer is seven times more likely to receive a favourable protection claim at the AAT, with only 4% of unrepresented people seeking asylum being successful.²⁶

The reduction of legal funding through the Immigration Advice and Application Assistance Scheme (IAAAS) in 2014 and its eventual end in 2022 correlates with the rapidly increasing delays people seeking asylum face for their applications to be processed.²⁷

In October 2023, the ASRC welcomed the Government's announcement of a \$160 million package to address visa processing delays, including over \$48 million for legal representation for protection visa applicants.²⁸ However, the details of how this funding has been allocated and how many people seeking asylum have been able to access legal representation through this funding have not been published. The ASRC does not receive any Federal government funding, and continues to witness that the demand for free legal advice for people seeking asylum is much higher than the resources available. It remains to be seen whether the recent funding will significantly improve access to legal representation for people seeking asylum, particularly people with higher barriers to access to justice such as those in immigration detention.

²⁵ ASRC, Migration review fails to address the harmful system people seeking asylum are subject to, 2023, <https://asrc.org.au/2023/04/27/migration-review/>.

²⁶ The Conversation, How refugees succeed in visa reviews: new research reveals the factors that matter, 10 March 2020, <https://theconversation.com/how-refugees-succeed-in-visa-reviews-new-research-reveals-the-factors-that-matter-13176>.

²⁷ The Law Council of Australia, Law Council concerned by removal of IAAAS Funding, 2014, <https://www.vicbar.com.au/news-events/law-council-concerned-removal-iaaas-funding>.

²⁸ The Hon Andrew Giles MP, Restoring integrity to our protection system, 5 October 2023, <https://minister.homeaffairs.gov.au/AndrewGiles/Pages/restoring-integrity-protection-system.aspx>.

Recommendation 6: Review and publish data on the effectiveness of existing government-funded legal representation for people seeking asylum.

Recommendation 7: Ensure that all people seeking asylum, particularly those in immigration detention, have free legal advice throughout the refugee status determination process, including merits review and judicial review stages.

Work, study and rebuild

A fair, humane and efficient humanitarian program must enable people seeking asylum to access their rights and adequate social support while awaiting their visa application outcome. If people seeking asylum do not have access to basic necessities such as work, food, housing and healthcare, they are prevented from living in safety and with dignity, and effectively engaging with the protection visa application process.

People seeking asylum wait years for their applications to be processed due to a deterioration of the humanitarian program under previous governments. During this time, they are excluded from mainstream social support. Only 2% of people seeking asylum have access to any form of social support through Status Resolution Support Services (SRSS).²⁹ However, even this is insufficient given that it is only 89% of the rate of mainstream support. While people seeking asylum should have access to the same safety net that everyone in the community relies on when times get tough, an immediate expansion of eligibility and funding for SRSS is needed.

Over the past eight years, the Federal Government has cut its budget of support for people seeking asylum in the Federal Budget by 95% from \$300 million in 2016³⁰ to \$17 million in 2024-25.³¹ Concerningly, the estimated expenditure on support for people seeking asylum was only \$16.4 million in 2023-24, which is less than half of the \$36.9 million allocated in last year's Budget.³² Cuts to funding and eligibility for SRSS have resulted in a sharp decline to only around 1,500 recipients in 2023, a reduction of around 25,000 people from 2015.³³

The decline in people's eligibility for SRSS is due to numerous reasons. These include the mutual exclusivity of the right to work and SRSS, meaning that even receiving a few dollars of income from a ride-share app or food delivery will suspend payments. Similarly, people who are studying full-time are ineligible for SRSS. Other eligibility criteria result in people being excluded such as making bank transfers amounting to \$1,000 and providing money to family overseas. Requesting people seeking asylum to provide information such as the assets of their family is unreasonable as these assets are often disputed or threatened and/or it may not be safe to contact their family due to their protection claims.

²⁹ ASRC, Poverty through Policy: The impact of excluding people seeking asylum from mainstream social support", 2023, https://asrc.org.au/wp-content/uploads/2023/04/ASRC_Policy_Through_Poverty_Finalv1.pdf.

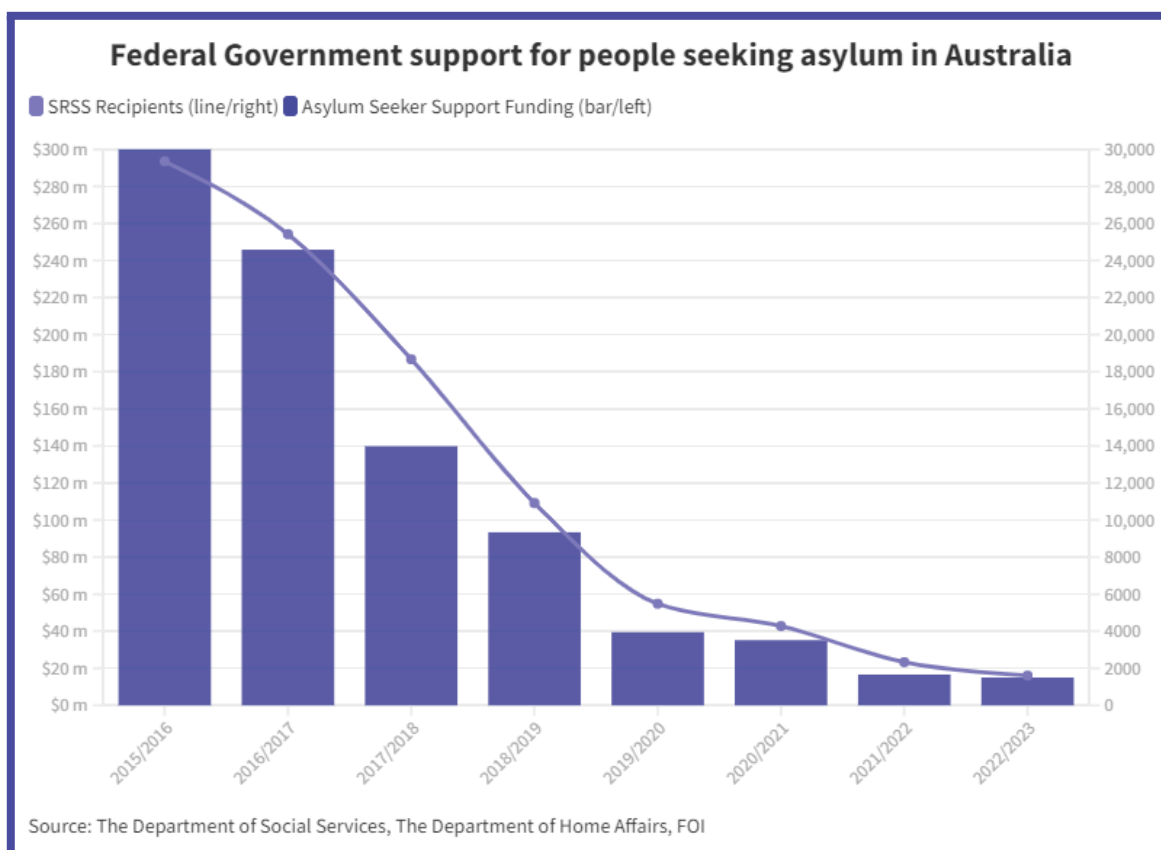
³⁰ Federal Budget 2016/2017, Social Services Portfolio: Budget Related Paper No. 1.15B, 2016.

³¹ Federal Budget 2024/2025, Social Services Portfolio: Budget Related Paper No. 1.14, 2024.

³² See n2, Refugee Council 2024-25 Budget Analysis.

³³ Supplementary Budget Estimates, Legal and Constitutional Affairs Committee, Home Affairs Portfolio, OSE23-738, 2023,

<https://www.aph.gov.au/api/qon/downloadestimatesquestions/EstimatesQuestion-Committeeld6-EstimatesRoundld22-Portfoliold20-QuestionNumber738>.



Applying for SRSS is a convoluted and time-consuming process, particularly for people with English language barriers. The process for accessing SRSS must be streamlined and designed for people seeking asylum. This would involve presenting clear guidelines about eligibility and how to apply, removing onerous requirements (which can endanger the people applying) and providing updates about the application as it progresses. The lack of any review process or transparency about decision-making to refuse access to SRSS is deeply concerning and must be rectified.

Social support must be provided in tandem with the right to work, study and access healthcare. While some people seeking asylum have work rights, study rights and Medicare, this is inconsistent and not guaranteed. In 2022-23, out of every 10 people who sought assistance from the ASRC, 7 did not have the right to study and 6 did not have the right to work, while 9 out of every 10 people who accessed ASRC’s GP clinic did not have access to Medicare.

The policies implemented by successive governments have denied people seeking asylum access to work and study, preventing them from the stability and rights needed to rebuild their lives. This policy also has broad impacts on people seeking asylum and the community, and long-term consequences for refugees after they are granted protection visas. If people seeking asylum had access to work rights during their protection visa application process, they could seek secure employment to financially support themselves and rebuild their lives. The precarity and insecurity that bridging visas create and the lack of ongoing work rights disincentivises reporting workplace abuses and prevents enforcement of workplace rights.³⁴

³⁴ Melbourne Social Equity Institute and Human Rights Law Centre, Labour in Limbo: Bridging Visa E holders and Modern Slavery, 2022, https://www.hrlc.org.au/s/HRLC_MSEI_LabourInLimbo_Report.pdf.

In addition, the ASRC encourages the Albanese Government to increase its investment in settlement assistance to offshore humanitarian program entrants. Holistic support that empowers people to upskill and enter the workforce and adapt to living in the Australian community, including medical and psychosocial support to assist people to recover from past trauma, is essential. The lack of adequate support can lead to visa cancellation, refoulement, indefinite detention and permanent family separation.

Recommendation 8: Provide ongoing work rights and study rights for people seeking asylum on bridging visas for the duration of their protection visa application process, including merits review and judicial review stages.

Recommendation 9: Immediately expand eligibility to Status Resolution Support Services.

Recommendation 10: Provide people seeking asylum access to mainstream social support services, including Centrelink programs such as Special Benefit, for the duration of their protection visa application process, including merits review and judicial review stages.

Permanent protection

Addressing the ongoing injustices endured by people who sought asylum by sea over a decade ago is essential to ensure the humanitarian program is fair and just.

People subjected to Fast Track process

In February 2023, the Albanese Government announced that refugees who are Temporary Protection Visa (TPV) and Safe Haven Enterprise Visa (SHEV) holders would be eligible to apply for permanent residency via an application for a Resolution of Status Visa (subclass 851) (RoS Visa).

While this announcement was a victory for many, it excluded permanency for the approximately 9,000 people seeking asylum who arrived by sea and were subjected to the cruel and unfair Fast Track system, who have been living in Australia for over 10 years and do not hold TPVs or SHEVs.

Under the Fast Track process, if a person seeking asylum had their protection visa application refused by the Department, they can only seek limited merits review before the Immigration Assessment Authority (IAA).³⁵ However, the IAA is not required to observe minimum standards of procedural fairness and is an unjust process. Since 2020, over 30% of IAA decisions reviewed by the courts were found to be unlawful,³⁶ noting that many people would not have been able to access judicial review or legal representation, meaning the number of unlawful decisions is likely to be considerably higher.

Although the Government has passed new legislation to abolish the IAA as part of the abolition of the AAT and establishment of the ART, the IAA will continue to operate and make flawed decisions until the ART is established. Currently, over 4,800 people are still being dragged through the unfair Fast Track process; they will only be eligible for a RoS Visa if they are found to be owed protection obligations by the IAA, often after waiting years.

The Albanese Government has stated that a previously unsuccessful Fast Track applicant who has new protection claims could request the Minister to intervene in their case and allow them to apply for another TPV or SHEV.³⁷ This is an inadequate response. The avenues for Ministerial intervention are limited, rarely successful and at best enable someone to submit a further protection visa application rather than being granted a visa. This is not a clear and swift pathway to permanent residency.

People subjected to the unfair Fast Track process have been living in Australia for over a decade – they have been working, paying taxes, attending school and rebuilding their lives. After seeking asylum for over 10 years, living with uncertainty and being separated from their families, the moral and humane response is to provide permanent residency for all people seeking asylum impacted by the cruel Fast Track system.

³⁵ The IAA is a review body within the AAT, which is responsible for independent merits review of administrative decisions made by the Australian Government.

³⁶ Administrative Appeals Tribunal Annual Report 2021-22, 2022, Chapter 4 - Immigration Assessment Authority, <https://www.transparency.gov.au/annual-reports/administrative-appeals-tribunal/reporting-year/2021-22-44> (appeals remitted in relation to total appeals finalised).

³⁷ Minister for Immigration, Citizenship and Multicultural Affairs, Explanatory Statement - Migration Amendment (Transitioning TPV/SHEV Holders to Resolution of Status Visas) Regulations 2023, 13 February 2023, <https://www.legislation.gov.au/Details/F2023L00099/Download>, p. 14.

Additionally, TPVs and SHEVs are yet to be abolished. These visas are part of a harsh system that harmed thousands of refugees in our community. Temporary protection visas must be abolished to ensure they cannot be used in the future to wreak havoc on people's lives.

Recommendation 11: Provide permanent residency to all people seeking asylum subjected to the unfair Fast Track process.

Recommendation 12: Abolish temporary protection visas.

Offshore detention

In July 2024, it will be 11 years since former Prime Minister Kevin Rudd announced that people seeking asylum by sea would be prevented from resettling in Australia. As we approach this shameful anniversary, the Albanese Government has the opportunity to offer some justice to the thousands of people affected by providing permanency for all and ending offshore processing.

Currently, there are around 50 people still held offshore in PNG unable to rebuild their lives, reunite with family or have any certainty about their future. After over a decade held offshore, there is an urgent need for evacuation.³⁸

There are also around 1,000 people in Australia who were previously held offshore, including hundreds of children. Agreements with New Zealand and the US along with other resettlement options with Canada and European countries will offer a pathway to some people, but not all. After a decade of cruelty, all refugees and people seeking asylum must be provided with a clear resettlement pathway. The Federal Government must no longer abdicate its responsibility in providing a humane solution.

Concerningly, the Albanese Government has resumed offshore detention in Nauru, and since September 2023 approximately 100 people, who arrived by sea, have been transferred to Nauru and held in closed detention. This cohort includes people seeking asylum and refugees. The humanitarian program must ensure that all people seeking asylum arriving in Australia have the opportunity to have their protection claims assessed in Australia under a fair and transparent system, and should not penalise people based on their mode of arrival.

Recommendation 13: Offer all people currently held offshore in PNG evacuation to Australia.

Recommendation 14: Provide clear, fair and humane resettlement pathways for all people subjected to offshore detention.

Recommendation 15: End offshore processing in Nauru and transfer all people seeking asylum and refugees to Australia.

³⁸ ASRC, ASRC Submissions to the Migration Amendment (Evacuation to Safety) Bill 2023, 2023, <https://asrc.org.au/wp-content/uploads/2023/03/20230223-Evacuation-to-Safety-Bill-ASRC-Submissions-Public-version-1.pdf>.