



**Hopes Fulfilled or Dreams Shattered?
From resettlement to settlement Conference
November 23rd - 28th, 2005**

Background Paper

Refugee Family Reunification

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This background paper has been prepared to inform discussion at this conference and does not necessarily represent the views of the Centre for Refugee Research.

Refugee family reunification

Introduction:

“I want to talk to Mr. John Howard and ask him to take everything away from me, but in return please bring my son here, and put him in a camp. Even if I don’t get to see him, at least I’ll know that he’s safe in the hands of Australian Government and close to me. I just want to protect my son in any way. I’m so depressed, my daughter is in Jordan and I haven’t seen her in seven years. My family is dispersed, my daughter has two children that I haven’t seen and my son is in Iran. My other son and I waited for so long in Indonesia when my husband was in Australia. We left our country and we had no choice.”

(Rania in Leach & Mansouri 2004; 105).

The above quote by one of the refugees in Australia succinctly explains that a critical policy review is essential in terms of the Australian Government’s refugee family reunification policy. Although Australia historically has a positive international reputation for its policies on refugees, recently this Government has come under increasing criticism for its policy changes, such as the policies on mandatory detention, border protection and temporary protection (Marston, 2003). One of the prime concerns has been the restriction on family reunion for the refugees on temporary protection visas as the psychological impacts of family separation are well documented (Leach & Mansouri, 2004). Moreover, some critics claim that long term separation may lead to the breakdown of family relationships (Refugee and Immigration Legal Centre Inc n.d.). Despite deep concerns about the impact of the family separation the Government of Australia has adopted a harsh family reunification policy for refugees. In this paper I will critically analyse and evaluate the refugee family reunification policy of the Australian Government against the backdrop of various international existing policies regarding the family reunion of refugees. Three case studies of refugee experiences will be presented to demonstrate the impact of the family reunification policy of the Australian Government.

Refugee family reunification policy in Australia:

“Between March 1994 and 19th October 1999, all refugees for resettlement in Australia- applying through both the onshore and offshore programs- were granted permanent residence in Australia” (Ecumenical Migration Centre 2003; 59). But from 20th March, 1999 onwards Australia started a new policy of granting temporary protection visas to refugees who arrive in Australia without proper documentation (DIMIA, 2005). So from 20th March 1999, the policy of the Australian Government towards people seeking asylum on the Australian mainland is such that these asylum seekers may be granted one of two types of refugee visas:

- ∅ If they arrive lawfully in Australia and are found to be owed protection they will generally be granted a permanent protection visa (PPV).
 - ∅ If they arrive unlawfully in Australia and are found to be owed protection they will generally be granted a temporary protection visa (TPV) in the first instance. This provides temporary residence for three years.
- (DIMIA, 2005)

However, this new policy of categorising asylum seekers has created two classes of refugees in Australia (Fernandes, 2002). According to the Australian policy refugees on TPVs are eligible for only a restricted range of benefits and services (Fernandes, 2002). The policy restricts them from reuniting with their families (Fernandes, 2002). As a result “they cannot sponsor their immediate family members who they claim live under treacherous conditions in their country of origin or a neighboring country” (Fernandes, 2002; 1). Moreover, they are unable to travel overseas to visit their family members either in their country of origin or in a safe third country as they are not granted multiple entry visas (Fernandes, 2002). On the other hand, refugees who receive PPVs are entitled to the same range of benefits and support as permanent residents or citizens of Australia (Fernandes, 2002). Hence the refugees on PPVs are allowed to travel overseas and have the right to reunite with their families.

The refugees who are granted PPVs can be reunited with family members in one of two ways:

- ∅ By sponsoring the relative under the Family Immigration Category, which requires provision of a sizeable financial contribution by the sponsor in Australia, and where the points test applies under the Concessional category.
- ∅ By nominating the relative under the Refugee and Special Humanitarian Program, which is less financially onerous, and which is not subject to points test.

(RRWG Sub-Committee on Immigration 1993; 8)

However, the Australian policy on TPVs was amended with further changes to the Migration Regulations in October 2001 (DIMIA, 2005). Since September 27th 2001, a new immigration law was passed which states that “unauthorised arrivals” who qualify to be Convention Refugees and have resided in a country, since leaving their home country, for at least seven days where they could have sought and obtained effective protection, will not be able to seek a permanent protection visa (Marston, 2003). This implies, under the TPV policy regime, that the asylum seekers arriving in Australia “unlawfully” who fall into this category may never be eligible to be reunited with their families.

Impact of this policy on families:

In order to tease out the impact of this current family reunification policy of the Australian Government I have conducted interviews with some refugees on TPVs and PPVs in Australia. One of the interviewees is on a TPV and the other two interviewees are on PPVs.

Case study1:

The interviewee on a TPV is a 20 year old unaccompanied minor. He said he is the eldest son in his family. He is living alone in Australia and the rest of his family members are in Africa. According to his culture 'family' includes all the relatives in the extended family. The support of the family members is crucial in every aspect of their lives. He was in detention for two years and has recently been granted a temporary protection visa. When asked how he was keeping in touch with his family members he said it was very difficult and frustrating for him. Since the place where his family lives has no telephone facility, the only way to stay in touch was by sending letters through the Red Cross¹. But it takes a long time for his family to receive his letters and reply. It is because the Red Cross only works in his country of origin intermittently as this organisation travels to different countries. Within those two years of detention he received just one letter from his family. He expressed deep anxiety for his family members as he is not currently aware of their whereabouts. The latest information he has is that the restaurant his family used to own in

trafficker. He has been in Australia for four years. He spent three years on a temporary protection visa. Staying in touch with his family is also difficult for him. When he was on the TPV he used to call his family at two to three month intervals. But he said it was expensive for him. He said being in Australia with no family members around is very difficult for him. He said,

“Sometimes I feel very lonely. I left my family and best friends. Everything is very different in Australia...but after getting PPV I feel very happy and relaxed. Now my family can come to me.”

He went to Pakistan to apply for his family to join him in Australia under the Refugee and Special Humanitarian Program. But he said it has been almost six to seven months since they applied and they have still not received any response. One of Javed's sisters is physically disabled. So the High Commission of Australia in Pakistan asked for documents of her disability. He is anxious that if his sister is rejected, there will be lot of problems for their whole family to reunite.

For him, life in Australia without his family has been very difficult. He has already spent four years in Australia without his family. Even though the status of permanent residency in Australia will allow his family to join him, the possibility of his disabled sister being rejected on health grounds remains a prime concern. The possible rejection may cause serious mental stress for the separated family members. The Refugee Council of Australia argues that, excluding a close family member on health grounds can mean a lifetime separation for that family which creates an intense sense of guilt and anguish for the refugee in Australia.

Case study3:

Another interviewee was a 57 year old man from Iraq. All his five children and his wife are living in Greece. He was a Chief Aircraft Engineer in Iraq. Because of his political involvement he was threatened and persecuted in Iraq. So he and his family fled to Greece. From Greece he applied to be resettled in Australia but his application was rejected four times. He has been in Australia for six years. Now he has received a permanent protection visa. He said,

“Though I am 57, I look like a 70 year old man. I am not relaxed...time pass very slowly...everyday I think of them...every small problem seems big for me because of the situation...I am becoming weak...I need someone to look after me.”

After gaining the permanent residency status he feels somewhat relaxed. He says that, “after PPV I am hopeful that sooner or later my family will join me”. He applied for family reunion through the Refugee and Special Humanitarian Program. But only his wife and two youngest children's application has been approved by DIMIA. The

applications of his other children have been rejected on the grounds that they do not come under the dependant children category.

Because of the policy of detention and temporary protection visa this interviewee has already spent six years in Australia without his family. The rejection of the applications of his other two children is an example of the “narrow interpretation of family” (Refugee Council of Australia, 2001; 3) by DIMIA. However, the Refugee Council of Australia argues that, “...in many cultures, “dependency” does not cease when a son or daughter reaches the age of 18; rather, it is common for a young person to be seen as an integral part of the nuclear family unity until they marry” (2001;4). T

Sadly, the impact on mental health is not the end of suffering for the refugees. Many have paid with th

“Australia simply cannot afford to be seen as a potential soft target by forum shoppers and the increasingly sophistic

Australia has some obligations³ to not penalise asylum seekers for their illegal entry into the country (Frank, 2003). However, the Australian Government has maintained its arrogance in ignoring its obligation to protect this vulnerable group of people.

9(1) of CROC states that a child shall not be separated from his or her parents against their will, except when such separation is necessary for the best interests of the child. (DIMIA, 2002; 179)

There is widespread recognition in the international community of the particular vulnerability of unaccompanied minors (UNHCR, Guidelines on policies and procedures in dealing with unaccompanied children seeking asylum in Europe, para 2 in DIMIA, 2002; 179).

UNHCR Guidelines on Reunification of Refugee Families (para5), states that, even though there is no universal concept of the family group, however, many would agree that it consists at least of the 'nuclear family' of husband, wife and their dependant children (DIMIA, 2002). However, "A flexible definition of the term family, which takes into account the element of dependency among other family members, should be used. The situation of the elderly in this context should receive special attention" (UNHCR, Family Protection Issues, June 1999 Para 27 in DIMIA, 2002; 180).

Evaluation of Australian policy towards family reunification of refugees:

Australia created its own version of the UN

(Human Rights Watch, 2002; 2).

“Refugees are people with an identity, a past, a history, a cultural heritage and they are people who have been forced out of their countries by political turmoil, ethnic wars, religious, social and gender persecution” (Lacroix, 2004;147).

Therefore, the refugee policy formulation should be based on a “sound moral basis” (Sidoti, 2002).

Conclusion:

The time has come for the Australian Government to make some fundamental changes in the refugee policy. Countries like the USA, and members of the European Union do not have a refugee policy that restricts family reunion. It is expected that border control should be given priority to maintain the nation’s sovereignty, but that should not happen at the cost of humanity. The vulnerability of refugees must be kept in mind before the Government imposes harsh policies as the refugees have suffered enough and this suffering must come to an end.

Acknowledgements:

I am grateful to Dr. Eileen Pittaway, Linda Bartolomei and Diane Gosden for their kind supervision.

I would like to thank Joanne Karcz, Assistant Coordinator, House of Welcome; Graham Thom, Refugee Coordinator, Amnesty International; and Andrea McLeod for their kind cooperation in the conduct of the interviews.

References:

Amnesty International, 2005, *Families divided under Australia’s refugee policy*, [online], Available: http://www.amnesty.org.au/Act_now/campaigns/refugees/families_divided_under_austra l...[2005, October 30].

DIMIA, 2005, Australian Immigration Fact Sheet-*Assistance for Asylum Seekers in Australia* [online], Available: www.immi.gov.au/facts/62assistance.htm [2005, August 2nd]

Bailey, J., 2002, *Australia and asylum-seekers: is a policy of protection in the “national interest”?* [Online], Available: <http://www.arts.uwa.edu.au/motspluriels/MP2102jb.html> [2005, October 25th].

Barnes, D., 2003, *A life devoid of meaning; Living on a Temporary Protection Visa in Western Sydney*, Centre for Refugee Research, University of New South Wales, Australia.

Centre for Applied Social Research, RMIT University, 2003, *World refugee day; Temporary Protection, permanent uncertainty* [online], Available: http://www.apo.org.au/webboard/results.shtml?filename_num=12717. [2005, August 8th].

Charlesworth, H., 2002, *Refugee, Morality and Public Policy; Morality and public policy abroad*, David Lovell Publishing, Australia.

Crock M. & Saul B., 2002, *Future seekers: Refugees and the law in Australia*, The Federation Press, NSW, Australia.

DIMIA, 2002, *Protecting refugee's family (The Final Act of the 1951 United Nations Conference of Plenipotentiaries):An Australian Perspective* [online], Available: <http://www.immi.gov.au/refugee/publications/convention2002/> [2005, October 20].

Feller, E., Nicholson, F., & Turk, V., 2004, *Refugee protection in international law: UNHCR's global consultations on international protection*, Cambridge University Press.

Fernandes, P., 2002, *Trauma strikes the soul: an attempt to explore and understand the impact of temporary protection visa on clients in New South Wales*, [online], Available: <http://www.arts.uwa.edu.au/motspluriels/MP2102pf.html>. [2005, October 24].

Frank, B., 2003, *Tampering with asylum/ a universal humanitarian problem*, University of Queensland Press.

Gibney, M., 1988, *Open borders? Closed societies?: the ethical and political issues*, Greenwood Press, USA.

Hailbronner, K., Martin, D.A., & Motomura, 1997, *Immigration Admissions: The search for workable policies in Germany and the United States*, Beghahn Books, USA.

Head, M., 2001, *Drowned refugees were victims of Australian policy*, [online] Available: <http://www.wsws.org/articles/2001/oct2001/refu-o29.shtml>. [2005, October 25th].

Human Rights Watch *Commentary on Australia's Temporary Protection Visas for Refugees* [online], 2002, Available: <http://www.hrw.org/backgrounder/refugees/australia051303.htm> [2005, October 25].

Lacroix, M., 2004, *Canadian Refugee Policy and the Social construction of the refugee claimant subjectivity: understanding refugeeness*, Journal for Refugee Studies, Academic Research Library.

Leach, M., 2003, “*Disturbing practices*”: *Dehumanizing asylum-seekers in the refugee “crisis” in Australia, 2001-2002*, [online], Available:
http://www.findarticles.com/p/articles/mi_go1656/is_200305/ai_n9011160 [2005, October 25th]

Leach, M. & Mansouri, F., 2004, *Lives in lim*

1. **Ahmed & McMichael**, 2003, *Family Separation: Somali Women in Melbourne*, [online], Available: www.deakin.edu.au/arts/cchr/rsg/pdfs/Celia%20McMichael.pdf.

This article focused on the refugee resettlement and the impact of family separation on resettlement. The writers focused on the resettled Somali women in Melbourne who were mostly accepted as humanitarian entrants under the Women at Risk Visa which operates in response to the vulnerability of women. This article is an extremely useful reference as it highlights the problems faced by refugee women, without their families, in a different country with a completely different culture.

2. **Dr. Barnes, D.**, *A life devoid of meaning; Living on a Temporary Protection Visa in Western Sydney*, Centre for Refugee Research, University of New South Wales, Western Sydney Regional Organisation of Councils Ltd., Australia, 2003.

This article reveals the experience of the refugees on Temporary Protection Visas in Western Sydney, based on an observational study. The mental stress suffered by the refugees on TPVs because of the family separation is well documented in this paper.

3. **Leach, M.**, 2003, "*Disturbing practices*": *Dehumanizing asylum-seekers in the refugee "crisis" in Australia, 2001-2002*, [online], Available: <http://www.findarticles.com/p/articles/mi>

arguments against the current flaws associated with the Australian refugee family reunification policy.

6. Refugee resettlement working group, 2004, *Immigration issues related to refugee resettlement*, RRWG Sub-Committee on Immigration.

This paper is presented by the Refugee Resettlement Working Group. This paper excellently captures the problems associated with the current Australian family reunion programs available for the refugees on Permanent Protection Visas. This is a very useful reference to tease out the flaws associated with the current family reunion programs for the refugees on PPVs.