



07 May 2021

Committee Secretary  
Senate Legal and Constitutional Affairs Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Email: [legcon.sen@aph.gov.au](mailto:legcon.sen@aph.gov.au)

Dear committee,

**Re: Inquiry into the efficacy, fairness, timeliness and costs of the processing and granting of visa classes which provide for or allow for family and partner reunions**

The Federation of Ethnic Communities' Councils of Australia (FECCA) is the national peak body representing Australia's culturally and linguistically diverse (CALD) communities and their organisations. FECCA develops policy and promotes issues on behalf of its constituency to Government and the broader community. FECCA strives to ensure that the needs and aspirations of Australians from cultural and linguistically diverse backgrounds are given proper recognition in public policy.

FECCA supports multiculturalism, community harmony, social justice and the rejection of all forms of discrimination and racism so as to build a productive and culturally rich Australian society. FECCA's policies are developed around the concepts of empowerment and inclusion and are formulated with the common good of all Australians in mind.

FECCA would welcome the opportunity to expand on this submission as required. For enquiries please contact FECCA CEO Mohammad Al-Khafaji at \_\_\_\_\_ or on \_\_\_\_\_.

FECCA wishes to thank its members for their contribution towards this submission and their ongoing work with culturally and/or linguistically diverse people in Australia.

Federation of Ethnic Communities' Councils of Australia

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## Recommendations

1. Government to implement a transparent system that recognises the right to family reunion.
2. Review the fairness and equality within the Migration Program which must achieve an appropriate balance between skilled migration and the fundamental importance of family reunion including simplification and improved access for all.
3. Government to urgently address the long processing times for partner, parents, family and carer visas.
4. FECCA supports the Productivity Commission's recommendation in their 2016 *"Migrant Intake into Australia"* report for a detailed review of current visa charges and their justification to develop a model of visas based on eligibility criteria and visa charge to attract a balanced range of migrants.
5. Provide specific and adequate funding to community legal centres and Legal Aid Commissions to provide immigration legal assistance to prospective visa applicants and sponsors in accordance with access and equity considering factors like disability, language barriers, personal funds and other factors.
6. Increase the cap on number of carer visas annually. People from culturally and/or linguistically diverse backgrounds with a disability must have the opportunity to choose to rely upon family members to provide carer assistance.
7. Ensure a person's access to permanency is not unnecessarily obstructed or delayed, especially as it pertains to eligibility for domestic and family violence support. This must include reconsidering additional English language requirements with particular focus on the devastating effects for humanitarian entrants and women experiencing violence.
8. Adopt the recommendations by the Refugee Council of Australia<sup>1</sup> including allocating at least 5000 visas under family stream for refugee and humanitarian entrants and introducing a needs-based concession after consulting with stakeholders on assessment.
9. Remove direction 80 to ensure all Australian permanent residents and citizens have equal access to family reunion pathways.
10. Remove discriminatory health requirements for people with disabilities

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<sup>1</sup> <https://www.refugeecouncil.org.au/family-separation/>

Family migration allows migrants to maintain family ties and connections. Access to family reunion is integral for successful settlement, promoting wellbeing and social cohesion. It is also related to core human rights principles around the rights of Australians to live with their family members.

The Productivity Commission has found that the Australian community enjoys a number of positive benefits from parent visa holders, including intangible economic benefits, social and cultural benefits and direct economic benefits.<sup>2</sup>

FECCA believes that family migration is integral to successful settlement of migrants in Australia and contributes to social cohesion and the wellbeing of the whole community but High entry charges for migrants wanting to live in Australia are inequitable and fundamentally overlook the importance of immigration to Australian society.

## **The Role of Family Reunion in Australia**

*Recommendation 1: Government to implement a transparent system that recognises the right to family reunion.*

*Recommendation 2: Review the fairness and equality within the Migration Program which must achieve an appropriate balance between skilled migration and the fundamental importance of family reunion including simplification and improved access for all.*

The availability of family reunion is important for successful settlement as it allows migrants to maintain family ties and connections. Family reunion also relates to the internationally recognised human rights of people to live with their family members. Access to appropriate, fair, and transparent family reunion processes is strongly related to people's experiences of safety, belonging, and a secure future. The benefits of family reunification for refugees and migrants cannot be underestimated. Family reunion plays an essential role to help people rebuild their lives and can provide critical support when adapting to new and challenging circumstances. Families are also better equipped to build new social networks, reduce isolation, and navigate through new social systems. Well established research suggests that there are positive health outcomes, such as greater longevity, from having high quality relationships with close family members and friends.<sup>3</sup> It also suggests that other aspects of life (such as employment outcomes) are better for people with wide social networks.<sup>4</sup> FECCA believes that family migration is integral to successful settlement of migrants in Australia and contributes to social cohesion and the wellbeing of the whole community.

Many migrants arriving through family migration volunteer at cultural, religious and community events and contribute to maintaining a multicultural Australia encompassing cultural and linguistic diversity. In 2016 the Productivity Commission public inquiry on Migrant Intake into Australia found the Australian community enjoys a number of positive benefits from partner and parent visa holders, including intangible economic benefits, social and cultural benefits and direct economic benefits.<sup>5</sup>

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<sup>2</sup> Productivity Commission, *Migrant Intake into Australia* (2016), 472 – 476.

<sup>3</sup>

<sup>4</sup> <https://www.abs.gov.au/ausstats/abs@.nsf/Previousproducts/D5B489F508DA80B7CA256E7D0000264F?opendocument>

<sup>4</sup> Organisation for Economic Co-operation and Development (OECD) 2001, *The Wellbeing of Nations: The Role of Human and Social Capital, Education and Skills*, OECD Centre for Educational Research and Innovation, Paris, France.

<sup>5</sup> Productivity Commission, *Migrant Intake into Australia* (2016), 472 – 476.

The right to family life, and family unity free from interference is a fundamental human right which is recognised by international law, such as Article 16(3) of the 1948 Universal Declaration of Human Rights (UDHR), Article 17 and Article 23(1) of the 1966 International Covenant on Civil and Political Rights (ICCPR), Article 10(1) of the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR) and Article 23 of the Convention on the Rights of Persons with Disabilities. All conventions are ratified by Australia.<sup>67</sup>

Under international law, the family is recognised as a fundamental unit of society and is entitled to protection and assistance and which should not be subject to arbitrary or unlawful interference. Being separated from your loved ones due to extreme prolonged processing times, prohibitive cost, health requirements, inaccessible processes for visa applications and other barriers are a breach of numerous fundamental human rights instruments.

## Prolonged Wait Times

*Recommendation 3: Government to urgently address the long processing times for partner, parents, family and carer visas.*

Well established research suggests that there are positive health outcomes, such as greater longevity, from having high quality relationships with close family members and friends.<sup>8</sup> It also suggests that other aspects of life (such as employment outcomes) are better for people with wide social networks.<sup>9</sup> Conversely long processing times cause distress for those waiting, both onshore and offshore with offshore applicants separated from their partner and children, not knowing when they will see each other again. The travel ban caused by COVID-19 has highlighted the devastatingly long processing times. With wait times of over 2 years for partner visas, 4 years for carer visas, and 5-50 years for parents and additional relative visas, families are putting their lives and dreams on hold while waiting for their visa. As explained during FECCA community consultation by a participant 'people will not settle if there is no certainty'<sup>10</sup>.

Shayma's story demonstrates the impact of wait times on applicants and sponsors further complicated by COVID-19.<sup>11</sup>

My name is Shayma and I was born in Iraq. I belong to Yazidi religion and I came to Australia in 2016. I was one of the first families to arrive in a town in regional Australia. This town make me feel like I am home and safe. In this beautiful country I have safety, freedom, rights and a respectful place you could never imagine. I got my first job in my life in here and that was best thing. I am working now in a primary school.

I left my country because of the ISIS when they attack our land 2014 because of our religion and what we believe in.

<sup>6</sup> <https://www.unhcr.org/5a8c40ba1.pdf>

<sup>7</sup> [https://humanrights.gov.au/sites/default/files/HRC\\_Report13.pdf](https://humanrights.gov.au/sites/default/files/HRC_Report13.pdf)

<sup>8</sup>

<https://www.abs.gov.au/ausstats/abs@.nsf/Previousproducts/D5B489F508DA80B7CA256E7D0000264F?opendocument>

<sup>9</sup> Organisation for Economic Co-operation and Development (OECD) 2001, The Wellbeing of Nations: The Role of Human and Social Capital, Education and Skills, OECD Centre for Educational Research and Innovation, Paris, France.

<sup>10</sup> <https://fecca.org.au/wp-content/uploads/2020/02/FECCA-Consultation-Report-2019.pdf>

<sup>11</sup> Shayma's story was sent to FECCA and to her local member of parliament. Some names and details have been changed so the author can remain anonymous.

After two years of waiting in Turkey I came to a safe place Australia and Ayman went to Germany. We were separate and been so far from each other. We didn't give up and never stopping loving each other. After 11 months of been in Australia, I went to see Ayman in Germany in 2017. When I came back from Germany, we got engaged and I went again to Germany in 2018, to have engagement party and celebrate our best moments with our families and friends.

I came back to Australia and I applied for a Prospective Marriage visa for Ayman in the same year. We thought the visa will take around a year not more but it took nearly 2 years of waiting time. After all the pain and being separated from each other, Ayman finally got his visa to come to Australia on the Valentine's Day. It was so special and we were very happy. I wish I could describe it but all I can say is that it was best feeling ever. I thought oh, finally we got the visa and he will come soon and there is nothing now that could stop him for coming and we will be together and this time forever but what was waiting for us, was bigger than anything I could imagine.

We booked a ticket for the March 2020. Ayman's flight was in the morning but the COVID-19 spread so quickly and they cancelled the flight. The Government closed the borders in 24 hours and he didn't make it to Australia. In May 2020 we applied for a travel exemption for Ayman to be able to travel and enter Australia. This exemption was granted by the Department of Home Affairs (Home Affairs).

Unfortunately, we were unlucky as Ayman's passport was going to expire at the end of May and Ayman could not travel until he renewed the passport. After he got the new passport end of July and we had to apply for a new exemption with the new passport details. On this occasion, Home Affairs refused the travel exemption request. We made a third request, but this was also refused.

My fiancé's visa is due to expire in November 2020 and if he is not able to enter Australia for us to get married by the expiry date, we will have to make a new visa application for him, wait one-two years for processing and pay another fee of approximately \$8000.

I do not know what will happen in the future because of COVID-19 and how long Ayman and I will have to be separated for. We miss each other a lot and just want to be together.

## Prohibitive High Cost

*Recommendation 4: FECCA supports the Productivity Commission's recommendation in their 2016 "Migrant Intake into Australia" report for a detailed review of current visa charges and their justification to develop a model of visas based on eligibility criteria and visa charge to attract a balanced range of migrants.*

FECCA believes that family migration is integral to successful settlement of migrants in Australia and contributes to social cohesion and the wellbeing of the whole community. FECCA is concerned there are the many barriers to family reunion for migrants and refugees such as limitations of eligibility for family reunion, extensive waiting periods and prohibitively high costs. This cost can include airfares, migration agents, legal fees, assurance of support, and years of financial and material support once the family member arrives in Australia, all heightened in the context of Covid-19. High entry charges for migrants wanting to live in Australia are inequitable and fundamentally overlook the importance of immigration to Australian society. FECCA believes that visa fees should not be viewed as a tool for raising revenue.

Australia's family visas are among some of the most expensive visas in the world. The current cost of partner visas ( $\approx$  \$8000) is well above the cost in the United States ( $\approx$  \$2100), New Zealand ( $\approx$  \$2000) and the United Kingdom ( $\approx$  \$2700). For parent visas, costs vary



between approximately \$6500 and \$48000 depending on visa type and carer visas costs almost \$4000. The 2016 Productivity Commission public inquiry on Migrant Intake into Australia reported: 'the Australian Government currently charges a wide range of visa fees. Their basis is unclear and appears ad hoc. Visa charges have increased significantly in recent years, and the revenue generated is now more than three times the costs of processing visa applications. Charges for Australian visas are generally higher than in Australia's major competitor countries'<sup>12</sup>. FECCA reiterates the Commission's concerns about prohibitively high costs of visas and the barriers this causes to the reunion of families on lower incomes. FECCA also supports the Productivity Commission's 2016 call for a detailed review of current visa charges, and their justification, to develop a model of visas based on eligibility criteria and visa charge to attract a balanced range of migrants.

## Access to Legal Advice and Representation

*Recommendation 5: Provide specific and adequate funding to community legal centres and Legal Aid Commissions to provide immigration legal assistance to prospective visa applicants and sponsors in accordance with access and equity considering factors like disability, language barriers, personal funds and other factors.*

The Australian migration system is well known to be complicated to navigate.<sup>13</sup> FECCA has heard from community members the information and application are very difficult to navigate resulting in frustration and inability to complete the required online documentation to satisfy the requirements. This has resulted in applicants making invalid applications or being rejected because they have no knowledge of the legal requirements. Applicants must seek expensive professional help from a Migration Agent or lawyer. Applicants may pay an additional \$4000-\$5000 on top of their visa fee to access legal advice, well beyond the means of many. Legal Aid and community legal centres are not funded to provide beyond initial advice and do not have the capacity to support complicated cases, the very cases who need more support. These more complicated cases include people with a disability looking to meet health requirements, application for carer visas and those with a low understanding of the system.

The inaccessibility of current process and system effectively excludes those without extensive surplus money or in-depth technical knowledge of the migration system in Australia.

## Visa Categories

The visa types within Australia's family migration program fit under the categories of carer, family, parent and partner. Each category and type have distinct challenges explained below.

### Carer visas

*Recommendation 6: Increase the cap on number of carer visas annually. People from culturally and/or linguistically diverse backgrounds with a disability must have the opportunity to choose to rely upon family members to provide carer assistance.*

There is minimal engagement of people from CALD backgrounds as participants in the NDIS and their understanding about the Scheme due to access and accessibility issues. The lack

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<sup>12</sup> Organisation for Economic Co-operation and Development (OECD) 2001, The Wellbeing of Nations: The Role of Human and Social Capital, Education and Skills, OECD Centre for Educational Research and Innovation, Paris, France.

<sup>13</sup> <https://www.pc.gov.au/inquiries/completed/migrant-intake/report/migrant-intake-report.pdf>

of culturally appropriate or culturally specific service providers, especially in rural and regional areas, can result in minimal or no choice for people from CALD backgrounds with disability. People from CALD backgrounds with a disability must have choice and control over their care including the opportunity to choose to rely upon family members to provide carer assistance. Many people from CALD backgrounds with disability prefer the family to provide primary carer responsibilities and supports.

Culturally and linguistically appropriate care is targeted care which is reflective of and responsive to the cultural, linguistic and spiritual needs of the person. It uses cultural and linguistic characteristics, experiences and perspectives of ethnically diverse people to deliver care services more effectively. Due to these requirements in many cases the most appropriate carer will be a family member.

As of February 2021, the Department released 11 October 2017 as the queue date of carer visa applications being processed.<sup>14</sup> Waiting almost four years for a visa decision has significant impact on the quality of life of people from CALD backgrounds with disabilities. Removing the cap on Carer visas will enable more Australians with serious illness or disability to be cared for at home according to their choice. This would assist in reducing pressure on the aged care and disability systems.

The application process for Carer Visas is very challenging for many applicants due to lack of knowledge of the disability in Australia, language and additional barriers they may face due to their disability. Often applicants will be requested to provide additional information adding to this challenge. The result of this challenging process is indicated by the high refusal rate of this visa. FECCA recommends improving the application process to be more transparent and accessible and the provision of legal assistance through specific funding for services. Without this change, the process is inequitable.

## Parent and Other Family Visas

*Recommendations: Parent and other family visa issues can be addressed through FECCAs other recommendations, specifically recommendations 3, 4 and 5.*

High visa cost and excessive wait times for migrants wanting to live in Australia are inequitable and fundamentally overlook the importance of immigration to Australian society as families with limited financial means may find it extremely difficult to sponsor their parents to come to Australia. This is discriminatory towards these families as it denies them access to a feasible option to reunite with their parents and family from overseas. Parent and family visa holders are diverse in age, skills, and experience; these individuals contribute to the Australian community in many tangible and intangible ways.

Processing wait times for parent and family visas are excessive with some visas taking approximately 50 years to process.<sup>15</sup> To avoid this excessively long wait, applicants can apply for another visa which costs approximately \$50,000 and where sponsors must make a substantially higher contribution to the applicant's health and welfare costs to be fast tracked. At February 2021 the contributory aged parent visa (\$47,755<sup>16</sup>) applications wait

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<sup>14</sup><https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-processing-times/family-visa-processing-priorities/other-family-visas-queue-release-dates>

<sup>15</sup> <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-processing-times/family-visa-processing-priorities/parent-visas-queue-release-dates>

<sup>16</sup> <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/contributory-aged-parent-864>

was 5 years and parent and aged parent visa 30 years (\$6,415<sup>1718</sup>).<sup>19</sup> The Department of Home Affairs current estimate is Remaining Relative and Aged Dependent Relative visa applicants face an approximate 50 year wait to be processed. Given the eligible age to apply for the Aged Dependent Relative visa is 66<sup>20</sup>, the 50 years wait time renders this visa non-functional.

Family relations and responsibilities towards relatives in need in culturally and linguistically diverse communities are common. The definition of immediate family used in the Australian migration system has a restrictive definition based on the concept of the nuclear family. For many, cultural, religious, historical or traditional beliefs and practices involve family members providing social support, not only to their 'immediate' family members but, to their extended family. Not being able to fulfil their family responsibilities towards a dependent relative can impact on the general wellbeing of families and can negatively affect social cohesion. The fee and wait time disparity across parent and family visas is unjust as the right to family reunion must not be determined by income. Most families and families with relatives overseas who are solely dependent on their support find it almost impossible to sponsor their relatives to come to Australia. FECCA believes that the ability to bring family and parents to Australia to live or visit for extended periods of time should not be limited to only those who have the financial means to do so.

## Partner Visa

*Recommendation 7: Ensure a person's access to permanency is not unnecessarily obstructed or delayed, especially as it pertains to eligibility for domestic and family violence support. This must include reconsidering additional English language requirements with particular focus on the devastating effects for humanitarian entrants and women experiencing violence.*

Partner migrants make a significant contribution to Australia's economy through participation on in the labour force; 72 per cent of partner migrants were employed during the first five years of settlement.<sup>21</sup> Beyond the economics, partners and other family migrants also contribute to the Australian community through their participation in various social and community groups and activities.<sup>22</sup> Most partners visa holders speak English well<sup>23</sup> and before arrival in Australia, are more likely to have completed a qualification than Australian-born residents of the same age.<sup>24</sup> While partner visa holders are not assessed on their skills for migration, 60-70 per cent of have post-school qualifications.<sup>25</sup>

FECCA is aware that the target number for partner visas is lower than the number of valid applications, resulting in a 'queue' and in most cases, a delay of approximately 2 years<sup>26</sup> before being granted a visa with an estimated queue of close to 91,000 applications.<sup>27</sup> An Australian partner visa costs approximately \$8000, well above the costs on US, UK and NZ. Australia's migration program must ensure fairness and equity for Australian citizens who

<sup>17</sup> <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/parent-103>

<sup>18</sup> <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/aged-parent-804>

<sup>19</sup> <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-processing-times/family-visa-processing-priorities/parent-visas-queue-release-dates>

<sup>20</sup> <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/aged-dependent-relative-114#Eligibility>

<sup>21</sup> Ibid, 6.

<sup>22</sup> Ibid, 6, 61-64.

<sup>23</sup> <https://www.homeaffairs.gov.au/how-to-engage-us-subsite/files/consultation-paper.pdf>

<sup>24</sup> Siew-Ean Khoo, Peter McDonald and Barbara Edgar, 'Contribution of Family Migration to Australia: Report to the Department of Immigration and Citizenship' (April 2013), 46.

<sup>25</sup> Ibid, 5.

<sup>26</sup> <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/partner-onshore> accessed 3.02.2021

<sup>27</sup> <https://www.sbs.com.au/news/greens-push-for-inquiry-to-overhaul-the-broken-system-of-family-visa-approvals>



wish to be reunited with partners from overseas and address the current wait time of approximately two years.

## Two-Step Process to Permanency

Over the past two decades there has been a significant change in the balance of temporary and permanent immigration in Australia.<sup>28</sup> Temporary migration has changed the nature of Australia's migration program away from nation building and towards economic utility. With the introduction of 'two-steps' towards permanent residency people are 'temporary' for longer. As part of Australia's multicultural policy, the Government focuses on integration and social cohesion where the goal is to help all communities become actively part of, and benefit from, Australia's economic and social development.<sup>29</sup> The goal of many 'temporary' migrants is achieving permanency for themselves and their families. During consultations, FECCA learned that many people want to be Australian and would be proud to be Australian with participants saying, 'Australia is a dream country'.

Currently potential applicants must first apply for a provisional (temporary) visa and wait for two years for assessment. If accepted, they generally wait an additional 2 years before they can be assessed for a permanent visa. FECCA does not believe that a period of provisional residence will enhance the integrity of the visa system or ease the burden on taxpayers. FECCA believes that any broader shift to provisional periods is likely to create more unnecessary complexity of health and social services. If people are living in Australia in the long term, it would be best if they were able to access essential services as soon as they require this support. There are already extensive restrictions and waiting periods for eligibility for a wide range of welfare payments. Provisional residence will delay the ability of immigrants to obtain meaningful employment and begin the integration process. During community consultations, FECCA heard of the many ways the wait for permanency affects individuals, their wellbeing, and their hope for the future hearing '...there is no permanency or stability. Choosing a school for our children or buying a house will be delayed. People will not settle if there is no certainty'<sup>30</sup>. FECCA recommends that immediate permanent residency should be granted to those who are currently eligible.

There is no evidence to show that provisional residency will lead to a more integrated, cohesive society. Indeed, it will have the opposite effect. As well as the significant symbolic consequences of being treated as 'provisional' or temporary, such classifications have very significant consequences for access to basic social rights and protections in Australia. People's experiences of belonging in a new country and their ability to participate and contribute, as demonstrated by the Scanlon Foundation<sup>31</sup>, form part of a strong socially cohesive nation. The development of a sense of belonging and social cohesion is dependent on a person's feeling of safety, the ability to plan a secure future in a new country and, as explored by the Scanlon Foundation, ones' feeling of worth in the new society through life satisfaction, happiness and future expectations.<sup>32</sup> Research has shown that whilst social relationships, shared cultural affiliations, and efforts from local stakeholders can promote feelings of belonging, restrictive visas also limit feelings of belonging.<sup>8</sup> By restricting belonging, these visa conditions, extended and complicated processes and ever-changing policy, disrupt all efforts towards social cohesion.

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<sup>28</sup> [https://parlinfo.aph.gov.au/parlInfo/download/publications/tailedpapers/b0cec7ab-9765-4628-92b7-ea741b27aa6c/upload\\_pdf/migrant-intake-report.pdf;fileType=application%2Fpdf#search=%22publications/tailedpapers/b0cec7ab-9765-4628-92b7-ea741b27aa6c%22](https://parlinfo.aph.gov.au/parlInfo/download/publications/tailedpapers/b0cec7ab-9765-4628-92b7-ea741b27aa6c/upload_pdf/migrant-intake-report.pdf;fileType=application%2Fpdf#search=%22publications/tailedpapers/b0cec7ab-9765-4628-92b7-ea741b27aa6c%22)

<sup>29</sup> <https://www.homeaffairs.gov.au/about-us/our-portfolios/multicultural-affairs>

<sup>30</sup> <https://fecca.org.au/wp-content/uploads/2020/02/FECCA-Consultation-Report-2019.pdf>

<sup>31</sup> <https://scanlonfoundation.org.au/social-cohesion-pillars/>

<sup>32</sup> Ibid.

In the last budget the Government proposed to add English requirements for partner visa applicants (see FECCA's submission [here](#)). This reform discriminates toward Australians who choose a partner who may not have what the Government deems 'functional English'. Putting additional hurdles in the way of people seeking partner visas, and especially those targeted at people who do not come from an English-speaking background, will merely increase the feelings of isolation that many migrants experience. It will also increase the emotional and financial hardship of families that already face extended separation or uncertainty.

The introduction of an English language requirement for permanent resident sponsors and Partner visa applicants will restrict human rights of family reunion on the basis of English proficiency. This is discriminatory toward Australians who choose a partner who may not have what the Government deems 'functional English'.

### **Women on Temporary Visas Experiencing Violence**

Family and domestic violence (FDV) in Australia is a significant ongoing issue, with enormous social and economic costs. Research has repeatedly shown that women are disproportionately more likely to suffer from FDV and sexual violence than men. It is widely reported that women on temporary visas are vulnerable to FDV due to their visa status, associated restrictions, and ineligibility for services as a barrier to safety, not inherent factors.<sup>333435</sup>

The English language requirement, proposed in part as a solution to domestic and family violence experienced by migrants, is not a reasonable solution. The introduction of an English language requirement for Partner visas will prolong the already over two-year period that applicants must remain temporary whilst they prove their English ability, prove their efforts to attain English or prove their reasons for exemption. This process will be the most difficult for those who have low levels of English, who the Government has identified as 'vulnerable'. This policy will ensure this vulnerable group will be kept temporary for longer ensuring they remain vulnerable for longer.

Whilst the recent reforms to the Adult Migrant English Program increasing access to English tuition is welcomed, FECCA believes any attempt to delay or increase barriers to a person's access to permanency and associated eligibility to domestic and family violence support must be abandoned. It must be acknowledged that perpetrators often use visa status to control their victims with 55% of women experiencing violence were threatened with deportation in a Segrave study.<sup>36</sup> The most powerful way to protect women on temporary visas who experience abusive relationships is by offering them permanency.

### **Refugee Families**

*Recommendation 8: Adopt the recommendations by the Refugee Council of Australia<sup>37</sup> including allocating at least 5000 visas under family stream for refugee and humanitarian entrants and introducing a needs-based concession after consulting with stakeholders on assessment.*

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<sup>33</sup> [https://intouch.org.au/wp-content/uploads/2020/03/inTouchPositionPaper\\_WomenOnTemporaryVisasExperiencingViolenceInAustralia\\_March2020\\_website.pdf](https://intouch.org.au/wp-content/uploads/2020/03/inTouchPositionPaper_WomenOnTemporaryVisasExperiencingViolenceInAustralia_March2020_website.pdf)

<sup>34</sup> <https://awava.org.au/wp-content/uploads/2018/12/National-Report-on-Women-on-Tempo...3-compressed.pdf>

<sup>35</sup> [https://www.monash.edu/\\_\\_data/assets/pdf\\_file/0003/1532307/temporary-migration-and-family-violence-an-analysis-of-victimisation-vulnerability-and-support.pdf](https://www.monash.edu/__data/assets/pdf_file/0003/1532307/temporary-migration-and-family-violence-an-analysis-of-victimisation-vulnerability-and-support.pdf)

<sup>36</sup> [https://bridges.monash.edu/articles/online\\_resource/Family\\_violence\\_and\\_temporary\\_visa\\_holders\\_during\\_COVI](https://bridges.monash.edu/articles/online_resource/Family_violence_and_temporary_visa_holders_during_COVI)

<sup>37</sup> <https://www.refugeecouncil.org.au/family-separation/>

For people from refugee background, the process of family reunion can be extremely challenging. Far too often, people from a refugee background have reported the physical security offered by Australia is offset by ongoing mental anguish of family separation.<sup>38</sup> Family reunion and the devastating psychological, economic and social impacts of family separation are some of the most pressing issues for refugees and people seeking asylum in Australia.

Sponsoring family members under the family stream of the Migration Program is not an option for many people from a refugee background due to the extended waiting period associated with some visas, the increasingly high cost of visa application fees and lack of or cost of legal advice.<sup>39</sup>

### **Effective Denial of Family Reunion to Refugees Who Arrived by Boat**

*Recommendation 9: Remove direction 80 to ensure all Australian permanent residents and citizens have equal access to family reunion pathways.*

People who arrived by boat without a visa after 13 August 2012 are not eligible to sponsor any family members for visas. The family visa applicants of those who arrived before 13 August 2012 are given the lowest priority for processing. This effectively denies this group any possibility of family reunion. FECCA heard that despite having money and annual leave, without a passport people cannot leave Australia to see their families. Their parents are dying, and they cannot go to them. FECCA heard that 'if you don't have family you become lifeless'.<sup>40</sup>

Abas' story demonstrates the strain the process can have on asylum seekers.

### **Abas– Afghanistan – Permanent Resident – Arrived by boat pre-August 2012**

During a community consultation, FECCA staff asked 'What is your biggest challenge?'. Abas replied, 'I am most concerned about my family and my citizenship'. He went on to describe the process in search of permanency he has endured since arriving in Australia 11 years ago after leaving an onshore camp. Abas is a refugee and had to leave Afghanistan because it was no longer safe. His family remains. Abas has applied three times for Australian citizenship. The first failed because he accidentally missed email, another filled in a form for an unaccompanied minor by mistake. When he arrived, he had been an unaccompanied minor. He has applied again and now Abas waits knowing that people in his community who applied long before him still have not received a response.

He works very hard and proudly owns and works in his shop. He dreams of growing his business as a family business, but he cannot because he does not have Australian Citizenship. For Abas, thoughts of Citizenship and family are closely linked as without citizenship he cannot sponsor his family. On his family Abas said '10 years is a long time'. A long time not knowing and unable to plan for the future because without citizenship he has no stability. Still, every quarter Abas pays taxes on his business contributing to the local economy.

<sup>38</sup> <https://www.refugeecouncil.org.au/family-reunion-issues/>

<sup>39</sup> <https://www.refugeecouncil.org.au/family-separation/>

<sup>40</sup> <https://fecca.org.au/wp-content/uploads/2020/09/Consultation-Report-July-Dec-2019.pdf>

Most of his family are now in Pakistan, but Abas cannot leave Australia—he has no passport. He explained ‘every moment you are thinking about your family, thinking about what happened. 10 years I have been alone—my life is wasted here’. Speaking about the government Abas wondered ‘they give us visa and we appreciate that, but now they are going to torture us. Why? This government makes it harder for us.’ For the past 7 years Abas has contributed to the community by running his business. He has no help and works every day. Exasperated, Abas exclaimed ‘Okay, we came by boat, we accept this. But they accepted us, now why are they torturing us?’

His thoughts remain with his family who lost their homes and all that they had. He knows his mum is sick, and she is alone. He knows she worries every single day. Abas wishes to bring her to Australia, but temporary visas are expensive, the wait for family visas is too long and he can only sponsor entry if he is a citizen.

When FECCA staff asked how this was affecting him. Abas responded saying ‘if you go through all those things it makes you sick mentally. If you can’t help yourself how can you help the society.’ When asked whether he had experience discrimination in his town Abas responded saying ‘people said there was no discrimination in Australia. They told me Australia had human rights. But I’m suffering every day. I go through this every day and the discrimination is only from the government.’

*Abas is not his real name. He did not want his name published because he is scared.*

## People with Disability

### *Recommendation 10: Remove discriminatory health requirements for people with disabilities*

According to Article 18 of the *Convention on the Rights of Persons with Disabilities*, all State parties are under an obligation to recognise the rights of persons with disabilities to liberty of movement, to freedom to choose their residence and to a nationality, on an equal basis with others.<sup>41</sup> FECCA believes that the health examination requirement imposed on migrants with disability contravenes this Article and has supported calls to amend this requirement.

In Australia, people with disability are protected under the *Disability Discrimination Act 1992* (DDA). However, the DDA provides an exemption for certain provisions within the *Migration Act 1958 (Cth)*, resulting in discrimination on the basis of disability having serious implications for migrants with disability who want to settle in Australia. If they fail to meet the ‘health requirement’ as set out in the *Migration Act 1958*, they are denied permanent residency on the basis that they are a ‘cost burden’ to the Australian taxpayer. The health requirement assesses individuals based on whether they will be a potential cost burden to Australia instead of looking at the contributions the individual can make to the community. Australia prides itself on welcoming the contributions migrants make in all aspects of society, however CALD people with disability, as a cohort, are classified as a cost burden and therefore are not welcome. In 2010, a Parliamentary Inquiry into the treatment of migrants with disabilities found that the health requirement unfairly discriminates against people with disability as it sets standards that the applicant do not or cannot meet.<sup>42</sup> In the intervening 11 years there has been limited action by any government to implement the Inquiry’s concluding recommendations.

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<sup>41</sup> <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>

<sup>42</sup>

[https://www.aph.gov.au/parliamentary\\_business/committees/house\\_of\\_representatives\\_committees?url=mig/disability/report.htm](https://www.aph.gov.au/parliamentary_business/committees/house_of_representatives_committees?url=mig/disability/report.htm)