

## Who we are

Hotham Mission Asylum Seeker Project (ASP) is a specialist non-government organisation based in Melbourne. We work with people seeking asylum who are lawfully awaiting an outcome on their refugee or humanitarian protection claim, but who face homelessness and destitution without community support.

The Asylum Seeker Project (ASP) envisions a future Australia in which those seeking asylum are treated with compassion, fairness and timeliness. We support and advocate for the most vulnerable asylum seekers in our community. We support and provide alternatives to mandatory detention.

In 2011, ASP expanded the scope of its work to house and to provide casework support for unaccompanied young people, families and vulnerable adults who are released from closed detention into community detention.

ASP provides:

- professional casework support
- housing
- basic living assistance (BLA)
- help with utilities and emergencies
- men's and women's support groups
- policy advocacy
- research towards a better reception framework for the future

ASP led two ground-breaking multi-agency research projects in 2009-2010, addressing “Reception Housing for People Seeking Asylum” and “The Convention on the Rights of the Child as it applies to Humanitarian Appellant Children”.

## How many people are there in Australia who are seeking asylum?

There were 11,491 applications for asylum in Australia in 2011<sup>1</sup>. The majority of these arrivals reside in the community either in Community Detention, or on Bridging Visas. However the actual number of people seeking asylum who are residing in the community is far greater than this figure, as it can take years for people’s asylum claims to be resolved.

## People seeking asylum and discrimination

People seeking asylum experience discrimination in relation to several of the protected attributes listed in the Draft Exposure Bill, most significantly race and/or religion. However, many people seeking asylum experience discrimination, both directly and indirectly due to the fact that they are

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<sup>1</sup> Asylum Statistics – Australia: Quarterly tables – March Quarter 2012 was prepared by Systems, Program Evidence and Knowledge Section of the Department of Immigration and Citizenship (DIAC) in Australia

seeking asylum and therefore lack immigrant status. That is, the ground upon which they are being discriminated against relates to their visa status and applied conditions, or immigration status, rather than, for example, their race or religion.

ASP works with many people seeking asylum who have experienced discrimination based solely upon the fact that they are a person seeking asylum. This has occurred in various arenas such as access to healthcare; concession cards/rates; securing employment; and accessing the rental market.

Housing is an area in which people seeking asylum experience discrimination and racism. There is already a competitive private rental market in which vacancy rates are low and rents are high. People seeking asylum additionally endure discrimination due to their immigration status making access to private rental practically impossible.

Access to mainstream transitional housing services can be equally as challenging for people seeking asylum due to the services' requirement of a transitional housing exit plan. The unknown refugee determination duration in conjunction with bridging Visa conditions creates the immense challenge for people seeking asylum to construct a housing exit plan. In Shelter SA's 2011 submission to the South Australian Housing Strategy it is stated that:

The politicisation of Australia's responsibility to protect refugees and asylum seekers has contributed to negative stereotypes and experiences and contributes to marginalisation and disadvantage in their attempts to access the private rental market.<sup>2</sup>

Despite having low incomes, people seeking asylum are not entitled to the range of concessions and discounts other people have on similarly low incomes. For example, people seeking asylum are not entitled to health care cards, or utility concessions. An increasing number of people seeking asylum are being denied work rights by the Department of Immigration and Citizenship (DIAC). This is determined by DIAC based on the person seeking asylum's Protection Visa application, their refugee determination stage and/or mode of arrival, date of arrival to Australia.

Only those people seeking asylum with work rights may be eligible for Medicare. Those eligible for Medicare are issued with an Interim Medicare card. People seeking asylum holding valid Interim Medicare cards have experienced being refused for bulk billing by health services due to lack of the health service's recognition/acceptance of the Interim Medicare card.

People seeking asylum who have been granted work rights condition on their bridging visas face discrimination when seeking employment due to their visa status. Bridging visas are generally granted for short term periods (1 month), therefore making the person seeking asylum's

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1. <sup>2</sup> Shelter SA Submission to the National Anti-Racism Strategy pg 2 [www.humanrights.gov.au/antiracism/Sub076.Shelter%20SA.doc](http://www.humanrights.gov.au/antiracism/Sub076.Shelter%20SA.doc)

employability unfavourable to potential employers, even though the person may reside in Australia for years on a Bridging visa with a work rights condition. An additional Bridging visa condition contributing to a person seeking asylum's unfavourable employability is the requirement for them to present in person to the Department of Immigration and Citizenship on the day the Bridging visa is due for renewal. This process can take hours.

People seeking asylum are especially at risk of discrimination because of the highly politicised nature of the asylum debate in Australia, and the persistent demonisation of people seeking asylum by many in senior positions in Government as well as some influential "shock jocks" on the radio. People seeking asylum have been variously accused of queue jumping, being criminals, presenting health risks, attempting to deceive and mislead immigration officials.

Indeed, the government attitude towards people seeking asylum is reflected in laws that are themselves discriminatory. Those who come here on planes with a valid visa, even if only a 24 hour transit visa, and then seek protection are permitted to reside in the community, albeit with limited support, until their status is determined. Those who arrive in Australia by boat and seek asylum are currently detained or sent offshore to Manus Island, or Nauru.

Hence people seeking asylum are penalised on the basis of the manner of their entry into Australia's jurisdiction, contrary to the requirements of the Refugee Convention.

### **The Draft Exposure Bill**

The grounds outlined in the Draft Exposure Bill do not adequately cover the discrimination experienced by people seeking asylum.

The Bill must be amended so that the people seeking asylum are protected from discrimination arising from their immigration status.

Currently Division 2 of the Draft Exposure Bill includes as a protected attribute:

- (f) immigrant status;

It is recommended that this subsection be amended to:

- (f) immigration status;

The definition section of the Draft Exposure Bill includes the following:

***immigrant status*** means the status of being an immigrant.

This definition should be changed to the following:

***immigration status*** means the process of coming to live permanently in Australia

In the Exposure Draft Explanatory Notes immigrant status is explained as follows:

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***Immigrant status:*** *immigrant status is defined as the status of being an immigrant. This preserves the effect of section 5 of the RDA. Immigrant status is intended to cover situations in which a person who is born in Australia is treated differently from a person who was not, solely on that basis. That is, treating a naturalised citizen differently from a citizenship by birth. It is not intended to be read as ‘visa status’—that is, it does not prohibit differential treatment between people who have a temporary visa from those who have a permanent right to remain in Australia.*

It is recommended that this explanation be amended to also cover those situations in which a person who is applying for asylum is treated differently solely on the basis of their visa status.

The words of the Exposure Draft Explanatory Notes should read:

**Immigration status:** Immigration status is intended to cover situations in which a person who is born in Australia is treated differently from a person who was not, solely on that basis. That is, treating a naturalised citizen differently from a citizenship by birth. This preserves the effect of section 5 of the RDA. It is also intended to cover situations where a person seeking asylum is treated differently from a person who is not due solely to their visa status.

## **Conclusion**

It is important that the rights and protections offered by Australian laws extend to all people residing on its shores. As it stands, the Draft Exposure Bill omits an important group of people, many of whom experience significant disadvantage and who are particularly vulnerable to abuse and discrimination. It is therefore imperative that the legislation be amended to explicitly protect people seeking asylum from discrimination.

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