

Submission to Senate Standing Committee on Legal and Constitutional Affairs

Inquiry into Family and Partner Visas

APRIL 2021



AASW

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Australian Association
of Social Workers

The Australian Association of Social Workers

The Australian Association of Social Workers (AASW) is the professional body representing more than 14,000 social workers throughout Australia. We set the benchmark for professional education and practice in social work, and advocate on matters of human rights, discrimination, and matters that influence people's quality of life.

The social work profession

Social work is a tertiary qualified profession recognised internationally that pursues social justice and human rights. Social workers aim to enhance the quality of life of every member of society and empower them to develop their full potential. Principles of social justice, human rights, collective responsibility, and respect for diversity are central to the profession, and are underpinned by theories of social work, social sciences, humanities and Indigenous knowledges. Professional social workers consider the relationship between biological, psychological, social, and cultural factors and how they influence a person's health, wellbeing, and development. Social workers work with individuals, families, groups, and communities. They maintain a dual focus on improving human wellbeing; and identifying and addressing any external issues (known as systemic or structural issues) that detract from wellbeing, such as inequality, injustice and discrimination.

Social work and human rights

Recognition of the quintessential dignity of each person is fundamental to the belief and ethics of social workers and the social work profession. Therefore, a commitment to promoting the human rights of everyone is a central concern of social workers.

Australia is a signatory to the Universal Declaration of Human Rights (UDHR); indeed, Australia played a leadership role in its development. Subsequently Australia has also signed the International covenant on Economic, Social and Cultural rights (ICESCR), the Convention Relating to the Status of Refugees (CRSR) and the Declaration on the Rights of the Child (DRC).

Nevertheless, the policies of the Australian government fail to enact the principles on which these documents are based. The Australian government does not respect the dignity of people seeking asylum, treat them fairly or protect their rights. For this reason, the AASW has continuously and strenuously advocated against many recent policy decisions, pointing out that they constitute breaches of human rights and of our obligations under various human rights instruments.¹

Every day, social workers see first-hand the devastating consequences of this disregard for people's dignity and freedom and the AASW calls on the government to take immediate action to fulfil our human rights obligations.²

Response

We will concentrate on the following Term of Reference

(g) eligibility for and access to family reunion for people who have sought protection in Australia;

Inability for people on TPVs to re-unite with family

The wording of this Term of Reference is misleading. It is only people who have been granted permanent protection who have effective access to family reunions. By contrast, the inability of people on Temporary Protection Visas (TPVs) to be united with their families exemplifies the cruel, ineffective and costly nature of Australia's policy towards people seeking asylum.³

It must be remembered that people are on TPVs because it has been established that they are in need of protection. Despite this, the Australian government has granted them only temporary protection, and the only reason that this protection is not permanent, is that they arrived by boat.⁴ Recognising some people's right to protection but denying it to others according to their means of transport is arbitrary, unfair and risks being in breach of Australia's human rights obligations⁵.

The consequences for mental health

Regardless of whether they work in a role that is specifically oriented to people seeking asylum, social workers in all contexts encounter people who are seeking asylum. Social workers' experience confirms the findings of other reports that the temporary nature of these visas causes distress and

¹ Australian Association of Social Workers "AASW letter to United Nations High Commissioner for Human Rights." *Australian Association of Social Workers*. April 11. Accessed April 19, 2021. <https://www.aasw.asn.au/document/item/96172017>

² Australian Association of Social Workers *The Scope Of Social Work Practice: Social Work With Refugees And People Seeking Asylum*, Accessed April 19 2021, Australian Association of Social Workers <https://www.aasw.asn.au/document/item/8529>

³ Refugee Council of Australia, "Family separation and family reunion for refugees: The issues." Refugee Council of Australia. March 1. Accessed April 19, 2021. <https://www.refugeecouncil.org.au/family-reunion-issues/5/.2021>

⁴ *ibid*

⁵ Andrew & Renata Kaldor Centre for International Refugee Law <https://www.kaldorcentre.unsw.edu.au/publication/temporary-protection-visas>. "kaldorcentre.unsw.edu.au. Accessed April 19, 2021. November 02, 2020.; Refugee Council of Australia, "Family separation and family reunion for refugees: The issues." Refugee Council of Australia. March 1. Accessed April 19, 2021. <https://www.refugeecouncil.org.au/family-reunion-issues/5/.2021>

contributes to mental ill-health of people who hold them.⁶ People on TPVs have been found to exceed people on permanent visas on all measures of psychological distress.⁷

Social workers have observed how the anxiety caused by the temporary status of the TPV is compounded by people's inability to be re-united with their family. People who work directly with people seeking protection have described the emotional distress and psychological damage that this policy is causing, to the extent that: "It is distressing beyond measure, a gaping wound that people carry around with them."⁸

Many people who were forced to seek asylum were seeking to escape persecution on grounds such as ethnic extraction, cultural identity or religious belief, all of which will be shared by family members who were unable to escape. This means that people on TPVs live in a state of constant anxiety about the situation of their family. In many cases, that anxiety is well founded: persecuting regimes in their countries of origin use the remaining family members as leverage over the person in Australia, knowing that the threat or execution of violence against family members will curtail their activities in Australia. To the extent that people who experienced persecution in their own country are inhibited from publicising the existence of such injustice, Australia's policy toward people on TPVs is preventing the perpetrators of these injustices from being held accountable.

The ineffective nature of the policy

The policy cannot be justified by arguing that it serves as a deterrent for future arrivals. Like many aspects of government policy towards people seeking asylum, the only purpose that could be imagined for this element of Australia's current policies would be a desire to punish them for choosing a boat when they acted on the right of all people to seek asylum from persecution.

Family reunions and the rights of children

Social workers are recognised throughout the world as the core professional group in identifying and responding to the mistreatment of children⁹. They have expertise in assessing the immediate and long-term harm that is caused by material deprivation, stress on family members, separation from parents, continuous disruption and uncertainty, trauma and grief.¹⁰ These phenomena are not restricted to the child protection context in Australia: they are conditions that are the direct consequence of Australia's treatment of the children of people seeking asylum. There can be no doubt that by denying children the opportunity to re-unite with their parents, Australia's policy toward the children of people on TPVs is having a directly detrimental effect on them.¹¹ Other groups have pointed out that Australia's actions constitute potential breaches of the right to freedom from

⁶Refugee Council of Australia, *"Family separation and family reunion for refugees: The issues."* Refugee Council of Australia. March 1. Accessed April 19, 2021. <https://www.refugeecouncil.org.au/family-reunion-issues/5/>. 2021 Productivity Commission, *The Social and Economic Benefits of Improving Mental Health*, Australian government, 2020

⁷ Australian Human Rights Commission, *Lives On hold: Refugees and asylum seekers in the "Legacy caseload"*, Australian Human Rights Commission Accessed April 19 2021, 2019

⁸ Personal communication

⁹ Australian Association of Social Workers, *The Scope of Social Work Practice: Social work in child protection*, 2015

¹⁰ *ibid*

¹¹ Lawrence J, Dodds A, Kaplan I, Tucci MM., 2019. "The Rights of Refugee Children and the UN Convention on the Rights of the Child." *Laws 8*(3) *Refugees and International Law: the Challenge of Protection*. 2019

arbitrary interference with family life¹². For AASW members, the potential breaches of the Convention on the Rights of the Child also demand an immediate policy change.¹³

Conclusion

Australia prides itself on its values of fairness, respect and compassion. The AASW believes that many Australians consider that current government policy is out of step with their values and does not live up to Australia's history of respecting human rights. The AASW calls on the government to take immediate action to bring our policies into line with community expectations, and to fulfil our human rights obligations under the multiple human rights instruments to which we are a signatory.

¹² Andrew & Renata Kaldor Centre for International Refugee Law
<https://www.kaldorcentre.unsw.edu.au/publication/temporary-protection-visas>." *kaldorcentre.unsw.edu.au*. Accessed April 19, 2021. November 02, 2020.; Refugee Council of Australia, "*Family separation and family reunion for refugees: The issues.*" Refugee Council of Australia. March 1. Accessed April 19, 2021. <https://www.refugeecouncil.org.au/family-reunion-issues/5/2021>

¹³ Lawrence J, Dodds A, Kaplan I, Tucci MM,. 2019. "The Rights of Refugee Children and the UN Convention on the Rights of the Child." *Laws 8(3) Refugees and International Law: the Challenge of Protection*.2019



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