

4 Vietnamese Students, Orphans and Other Persons

Vietnamese students

4.1. The 475 Vietnamese students in Australia were placed in a most difficult and distressing situation by events in their home country. As the North Vietnamese forces moved further south the Vietnamese student community in Australia became increasingly fearful for the safety of their families. Reports of thousands of Vietnamese fleeing and tragic stories of starvation and disease caused a great deal of anguish. The close-knit nature of the Vietnamese student community in Australia exacerbated their fears. Rumours were rife and stories of reprisals and atrocities—some of which were undoubtedly true—circulated amongst them.

4.2. For the first few months after the fall of Saigon the students received no communication at all from their families; thus their fears were further aroused. Those whose families had managed to escape later sent letters describing destitute living conditions in the refugee camps. Those whose families were still in Vietnam either received no communication at all or a cable dispatched from a third country worded in a standard form saying that the family was well and there were no problems. The fact that these cables were almost identical immediately aroused suspicion in the minds of the students.

4.3. Because there had been reprisals on those who had been associated with the Thieu Government, many students were fearful for their parents' safety and consequently became very cautious in their own actions. Many did not attempt to send mail to South Vietnam as they feared its possible interception and the repercussions this could have for their families. The Committee was informed by witnesses representing the students that most of them did not want attention drawn to themselves in any way in case it somehow affected their families and it was no doubt for this reason that the Committee received very little direct response from the students.

4.4. Other evidence placed before the Committee indicated that on some university campuses Vietnamese students were being subjected to pressure to join the communist cause by other students who supported the PRG regime in Vietnam. Although the Committee was unable either to disprove or to substantiate the serious allegations of harassment, intimidation, threat and innuendo, it is clear that many of the students felt they were being pressured to return to Vietnam and to register their personal particulars with either the Embassy of the Democratic Republic of Vietnam (the 'North Vietnamese Embassy') in Canberra, or the diplomatic mission of the PRG in France.

4.5. Prior to the fall of Saigon, a few Vietnamese students decided to help their parents by taking action. Letters were sent to the Prime Minister and the press describing their plight; a petition of 1000 signatures was organised; a rally was conducted and an impromptu fast was held. All of this action was designed to enable them to bring their families to Australia. Their problems were complicated, however, by the fact that most of them had been admitted to study in Australia on condition that they would return to their home countries on completion of their courses. They were thus granted temporary resident status and such status did not permit them to bring other members of their families with them to Australia.

4.6. Nevertheless, from the beginning of April 1975—when the situation in Vietnam had deteriorated significantly—the reaction of most students was to take direct steps to bring their families to Australia. Consequently applications were forwarded to the then Department of Labor and Immigration seeking to nominate their relatives for entry to Australia. By 25 April the Department had received 2687 nominations from students and other temporary residents. These comprised 802 on behalf of members of families;¹ 1700 for brothers and sisters; and 195 for distant relatives and friends.

4.7. A further 970 Vietnamese were nominated by persons permanently resident in Australia. These comprised 212 for families, 441 for brothers and sisters and 317 for distant relatives and friends.

Normal criteria for entry

4.8. At the beginning of April the criteria for entry of Vietnamese persons were governed solely by existing immigration policies. These policies allowed families, i.e. spouse, minor dependent children and aged or otherwise dependent parents of persons *permanently* resident in Australia to enter subject only to health and character checks. Other categories of intending migrants were required to meet personal criteria relating to health, character, economic viability and settlement prospects. In addition, they were subject to stringent occupational criteria, only a limited range of professional and sub-professional workers, certain tradesmen (mainly in the metal and electrical fields) and some others with special skills or experience being allowed to enter.

4.9. Under these conditions very few of those nominated met the requirements. As the students had only temporary resident status their relatives could not be considered within the provisions for family reunion and very few of them met the normal occupational requirements. In fact of the total 3667 persons nominated by both temporary and permanent residents, only 251 were accepted under the normal immigration criteria.

¹ Spouses, dependent children and aged or otherwise dependent parents

*Guidelines for entry
of Vietnamese*

4.10. As discussed previously, guidelines were announced by the Prime Minister on 22 April 1975 for the temporary entry of additional categories of Vietnamese into Australia. During the course of the inquiry it became obvious to the Committee that this statement caused a great deal of confusion among the students as to who was to be admitted to Australia. Whilst it was made clear that the spouses and dependent children of students were to be given visas for temporary residence in Australia and assisted by the Government to join the students, specific mention was made that the decisions had been taken with regard to the principle of maintaining the unity of families. In retrospect we believe that it was this latter part of the statement rather than the operative section on spouses and children, which the students emphasised and interpreted to mean they could bring their families to Australia.

4.11. Ironically, many of the voluntary organisations and private individuals who were assisting the students saw the guidelines in this same light, thus adding unnecessarily to the confusion. Many of the submissions received by the Committee contained complaints about the lack of cooperation from the Department of Labor and Immigration. The students could not understand why applications had not been approved since the people nominated were members of the family. There was no appreciation that the Department had been issued with set guidelines which allowed for a nuclear family, i.e. spouses and dependent children, rather than the extended family which included wives, children, parents, brothers, sisters and other distant relatives.

4.12. As far as the Committee was able to ascertain, only 82 of the 2697 nominations lodged by students were approved for temporary entry under these new guidelines.

4.13. Other criticism of a quite different nature alleged that the guidelines split families rather than united them; that the formulation of guidelines were delayed in order to minimise the number of refugees with which Australia would have to concern itself; and that they were so narrowly drawn that very few refugees would qualify for entry to Australia.

Resident status

4.14. The events of April 1975 prompted many students to consider the question of whether or not they would be allowed to remain permanently in Australia. Besides looking to their future security, the granting of permanent resident status would have conferred eligibility on them to nominate spouses, minor dependent children and aged or otherwise dependent parents for permanent entry to Australia under the normal immigration family reunion criteria. Hence with family unity considerations foremost in their minds, many students were prompted to apply to the Department of Labor and Immigration for status as permanent residents. At that time, however, the policy of the government was to grant permanent status only to private students who had successfully completed their courses; sponsored students who were still engaged in study were to

retain their temporary status—a decision which caused a great deal of anguish in the student community for many months.

4.15. While assurances were given on 3 April 1975 that the students could defer their obligations to return home, and their visas were extended to 31 December (after which time the situation was to be reconsidered), the Government expressed the hope that many would be able to return and contribute to the reconstruction of their country when peace was restored. On 13 June 1975, the Acting Minister for Foreign Affairs indicated that private students from South Vietnam who had successfully completed their studies would be eligible to apply for resident status. Applications for resident status lodged by sponsored students, however, would be held over until they had completed their studies in Australia and then determined in the light of developments in their home country. While the Committee feels sure that no students would have been sent to their former homeland, these statements gave no guarantees beyond 31 December 1975 and left the question of their long-term future unanswered.

4.16. It was not until 11 November 1975 that an announcement was made giving sponsored students from South Vietnam and Cambodia the right to apply for permanent resident status irrespective of whether they had completed their studies, terminated their studies or still faced a further period of study in order to complete their courses. This decision also enabled those private students who were still studying or who had abandoned their studies to apply for resident status if they did not wish to return home. The Committee endorses the final decision to allow all students to apply for permanent resident status, but notes that much confusion and anguish would have been avoided if the decision had been made:

- prior to the fall of Saigon in the case of private students; and
- in the case of sponsored students, at the time Saigon fell—when, for all practical purposes, their return-home obligations (and the obligations on the Australian Government) had lapsed.

*Financial assistance
to students*

4.17. The Committee was informed that many of the students were in severe financial difficulties at the time of the fall of Saigon. While the 385 sponsored students who were financed through the Colombo Plan received a basic living allowance of about \$3000 per year, the 90 private students were in a more desperate situation. Some relied almost totally on assistance from their parents. Because the families had either lost contact with their children or were in financial difficulties themselves, they could no longer continue this form of assistance and the students found themselves with very little or no financial support. Furthermore, those who relied on additional income from part-time work found that their temporary resident status adversely affected their employment prospects as many employers were unwilling to engage persons whose period of residency expired on 31 December 1975.

4.18. In spite of these observations, the Committee notes that early recognition was given to the fact that many private students had lost contact with their families and were thus without means of support. On 29 April 1975 a special emergency scheme of assistance was introduced to provide for an immediate grant of \$100 for food and shelter to private Vietnamese students in proven financial difficulties. To cope with the longer-term situation this was supplemented on 2 May 1975 with a special living allowance scheme which had been modelled upon and means-tested in the same way as the scholarship schemes available to students who were Australian citizens or permanent residents.² An additional step taken to help alleviate financial difficulties was the relaxation by the Department of Labor and Immigration of its restrictions which prevented students from undertaking part-time employment.

4.19. Since July 1975 there has been a significant decline in the number of private Vietnamese students in receipt of financial assistance. As at 30 March 1976 the number of students receiving assistance totalled 74 and comprised 24 Vietnamese undertaking higher degree courses, 26 Vietnamese and 15 Cambodians undertaking tertiary courses and 6 Vietnamese and 3 Cambodian school children. Three factors accounted for the decline in numbers being assisted—the completion of courses at the end of the 1975 academic year; the review of the financial circumstances of school children and the discontinuation of assistance to a number of them; and the granting of permanent resident status to a number of students.

4.20. Apart from the financial assistance which was provided to them, we believe that the students (and others) suffered from a lack of appreciation or genuine concern for the predicament in which they found themselves placed. It is clear to the Committee that communication with the students was generally ineffective. Instead of being conveyed directly to *all* of the students, information ‘filtered through their ranks’ from those who had overheard the Prime Minister’s replies to questions in Parliament and from persons and departmental officials to whom they had turned for practical assistance. Moreover, because so many of the decisions were taken in piecemeal fashion, the students lacked an overall understanding of their own status and the government’s intentions towards them and their families. Such factors only helped to exacerbate their feelings of anxiety and concern as to the whereabouts and safety of their immediate family as well as the members of their ‘extended family’.

² This special living allowance scheme provided for students pursuing post graduate courses to receive comparable benefits to those paid to Australian students under the Post Graduate Award Scheme; undergraduate students to receive benefits at the maximum rate payable under Tertiary Education Assistance Scheme; and primary and secondary students to receive living allowance within the range of \$350 to \$1600 per annum. Under these arrangements an amount of \$53 385 was expended during the period 2 May-30 June 1975 and a further \$340 000 was requested to provide for benefits for the 1975-76 financial year. (In March 1976, this estimate was revised to an amount not to exceed \$250 000.)

The Committee notes the advantage, in this instance, of students’ retaining their temporary resident status. Had they been granted status as permanent residents, they would then have had to compete with Australian students for financial assistance, and their prospects in that wider field would have been less favourable.

Orphans

4.21. During the war in Vietnam there was a very high mortality rate among the civilian population. The nature of the war, the method by which it was prosecuted and the armaments employed were such that death and injury were generally indiscriminately caused, with the result that the civilian population was as often at risk as were serving members of the armed forces. In these circumstances it was to be expected that there would be large numbers of orphan children.

4.22. During the final stages of the war in Vietnam, many stories of personal tragedy and deprivation reached Australia; television showed emotionally charged scenes of misery, despair and of children lost amid a mass of confusion and terror. It was this last aspect that particularly aroused the compassion of many Australians and which gave rise to the thousands of inquiries about Vietnamese orphans.

4.23. For many years the fate of these children had been a matter of great concern to charitable organisations and individuals in Western nations. Some organisations tackled the problem by establishing programs for the sponsored maintenance of orphans—an approach the Vietnamese government preferred—while other organisations and individuals attempted to arrange for adoptions of Vietnamese orphans in overseas countries. There were, however, a number of obstacles to the latter approach: the concept of adoption was alien to traditional Vietnamese thinking; the Vietnamese authorities showed no enthusiasm for overseas adoptions; Vietnamese law regulated such adoptions very closely and took considerable time and effort for compliance; and, there was a considerable body of opinion in Vietnamese government circles that the country should not release its children to foreigners but should care for them itself. There were also problems at the Australian end: Australian welfare authorities did not encourage intending Australian parents to adopt children from overseas, and the requirements of the Australian regulatory authorities were time-consuming. Another impediment to overseas adoption of Vietnamese children was the then law of South Vietnam which required that the proposed adoption be approved by a Court. In these circumstances, although there existed a large number of orphan children, the number available for adoption in other countries was relatively small.

4.24. When it became apparent that ‘the fall of Saigon and South Vietnam was imminent,’³ the Australian Government acted to ensure that those orphan children already approved for exit were moved immediately. On 4 April 1975 three RAAF Hercules aircraft equipped for ‘medivac’ tasks carried Vietnamese orphans from Saigon to Bangkok and connected with a chartered Qantas 747 aircraft. This flight, which carried relief supplies to Bangkok for onward freight to Saigon, returned to Australia with 208 Vietnamese children. A further flight scheduled to leave Australia on 7 April was cancelled because of the attitude of the

³ Submission from the Prime Minister's Office, 17 October 1975; Transcript of Evidence, Vol. I 1975, p. 428

Republic of Vietnam to releasing more children for international adoption.

4.25. The second airlift was carried out on 16 April 1975 when a Qantas flight transported doctors, nurses and medical supplies to Bangkok. Twenty-five members of the team went to Saigon by RAAF aircraft to accompany the 75 children from Saigon to Bangkok and thence to Melbourne where they arrived on 18 April 1975. With regard to this orphan flight, the Committee notes that members of a voluntary body, the Australian Society for Inter-Country Aid (Children), provided the Australian Embassy with considerable assistance in Saigon in securing the release for the children's evacuation.

4.26. Because the normal medical examinations and clearance requirements were waived for all of the orphans brought to Australia, many were in very poor health. The Committee was informed that most of the orphanages had only rice water to give to the children, which meant most were suffering from severe malnutrition. In the first flight of 208 orphan children, 80 of these were babies or very young infants in need of individual attention; many suffered from dehydration, respiratory and skin infections and gastro-enteritis; 10 were acutely ill and several others had measles or chickenpox. On arrival in Sydney, 109 children were admitted to the Royal Alexandra Hospital for Children and 99 were taken to North Head Quarantine Station. Twenty-six of these were subsequently transferred to the hospital. In the case of the second flight, all of the 75 children were taken by ambulance to the Fairfield Hospital where medical teams were waiting to provide necessary attention. In spite of the best medical care and attention in Australia, 13 of the 283 orphans have died.

4.27. Since their arrival in Australia the Vietnamese orphans are believed to have been integrated satisfactorily into the Australian community. On 19 September 1975 only 21 of the children were unplaced or were in temporary foster care—the remainder had been placed with prospective adoptive parents.⁴ Until such time as adoption procedures have been completed, these children come within the terms of the Immigration (Guardianship of Children) Act and their welfare is supervised by the Directors or Senior Administrators of the relevant child welfare authorities of the States and Territories.

4.28. In overall terms we believe that the action taken to alleviate the plight of these Vietnamese orphans is to be commended. In making this comment, however, we note that the Government's efforts were not assisted at the time by exaggerated claims by some State authorities concerning the numbers of orphans who could be placed with approved prospective adoptive parents, or by media reports which created great anxiety among prospective adoptive parents and raised expectations that

⁴ As of October 1976, of the initial groups of children that arrived, 4 have been permitted to leave Australia in the custody of the persons with whom they were placed, and 2 children who are severely handicapped are in institutions; the remainder have been placed for adoption, long-term foster care or, because of their age, are now capable of living independently.

thousands of children were available for adoption by any interested person whether or not they met the requirements laid down by State adoption agencies.

4.29. The Committee also notes the concern which has been expressed over the delays and legal difficulties being experienced by prospective adoptive parents seeking to adopt the Vietnamese orphans who have been placed in their care; in our view, these matters must be concluded without further delay. Under the circumstances, therefore, and in view of the special nature of this situation, the Committee believes that the Minister for Social Security (in whose care and guardianship the orphans are placed) should now consent to the adoption of those children who were evacuated from Saigon in the two flights during April 1975.⁵

4.30. Finally the Committee is most concerned about the apathy and indecision of the past 13 months over the questions of guardianship and acceptance of legal and financial responsibility for the welfare and full-time care of a number of children who fled with the refugees from East Timor without their parents. Such matters must be settled quickly and cannot await the uncertain outcome of attempts to reunite these children with their parents.

Other persons

4.31. During the inquiry a considerable amount of criticism was levelled at the Government regarding its treatment of those Vietnamese who had for many years been closely associated with the Australian presence in Vietnam. The guidelines for entry announced by the Prime Minister on 22 April 1975 included provisions for these people. 'In the event of representations being received regarding the temporary entry into Australia of any Vietnamese with long and close associations with the Australian presence in Vietnam whose life is considered to be in danger, the Australian Government will consider such representations on a case by case basis. The number of such persons is expected to be small.' Indeed the numbers were small—of a total of 27 cases submitted for Ministers' consideration on this basis, 9 (plus their dependants) were approved for permanent residence, including one member of the locally-engaged staff of the Australian Embassy in Saigon. The other 18 were rejected. Outside this category, approval was given as special cases for two groups of nuns, numbering respectively 34 and 9, for temporary residence in Australia. With regard to the former employees of the Embassy in Saigon, the Committee was told that only two had made formal applications seeking to obtain refuge in Australia. It was also submitted that the reason so few had applied was that they were told there was no point in their doing so as they

⁵ In the context of these remarks, the Committee draws attention to Section 6 of the *Immigration (Guardianship of Children) Act 1946-1973* which provides that:

'The Minister shall be the guardian of the person, and of the estate in Australia, of every immigrant child who arrives in Australia after the commencement of this Act to the exclusion of the father and mother and every other guardian of the child, and shall have, as guardian, the same rights, powers, duties, obligations and liabilities as a natural guardian of the child would have, until the child reaches the age of twenty-one years or leaves Australia permanently, or until the provisions of this Act cease to apply to and in relation to the child, whichever first happens.'

would not be allowed to leave Saigon. In the light of all the evidence received, however, the Committee can draw no other conclusion than, that it was felt in Canberra at the time that former employees would not be endangered because of their association with Australia's presence in Vietnam and hence their applications would generally not be approved.