

CHAPTER 8

TEMPORARY PROTECTION VISAS, BRIDGING VISAS, AND COST SHIFTING

8.1 A large number of submitters raised concerns about the operation of the Temporary Protection Visa (TPV) regime, and sought its abolition. The committee also received complaints about bridging visas, and the current status of Commonwealth/State relations in regard to refugee settlement issues. The evidence received in relation to these issues is discussed in this chapter.

8.2 Until recently, the majority of people held in immigration detention were unauthorised arrivals awaiting the outcome of their application for refugee status. The detainee population also includes non-citizens who have overstayed their visa or whose visas have been cancelled for a variety of reasons.

8.3 Unlawful non-citizens may be released from an immigration detention centre under various arrangements. These arrangements include the granting of visas such as a Temporary Protection Visa (TPV) or a Bridging Visa (usually Bridging Visa E or a Removal Pending Bridging Visa). Under a recent amendment to the Migration Act, a detained person can also be released into the community under community detention arrangements, at the discretion of the Minister.¹

8.4 Most submissions and witnesses agreed that releasing detainees into the community, on any basis, is preferable to prolonged periods of immigration detention. However, a number of aspects of the post-detention visas were criticised, particularly the eligibility criteria and the restricted benefits they provide.

8.5 Concern was also expressed that the limited support provided by the Commonwealth Government for some classes of visas effectively means that State and Territory government agencies and community and charity organisations bear the responsibility and burden of looking after many of those visa holders.

Temporary Protection Visas

8.6 Until October 1999 all asylum seekers who were assessed as meeting the criteria set out in the 1951 UN Convention Relating to the Status of Refugees and the 1967 Protocol on the Status of Refugees, including unauthorised arrivals in Australia, had immediate access to a Permanent Protection Visa (PPV).

8.7 On 20 October 1999, the migration regulations were amended to include a new visa class — the Temporary Protection Visa (TPV). From that time the eligibility criteria for temporary and permanent protection visas depended on the mode of entry.

1 *Migration Amendment (Detention Arrangements) Act 2005.*

A person who arrived with a visa and subsequently claimed asylum continued to be eligible for a PPV. By contrast, an unauthorised arrival (such as a 'boat person') was only eligible for a TPV.²

8.8 The TPV was introduced in response to a significant increase in the number of unauthorised boat arrivals using people smugglers to travel to Australia. The temporary protection visa regime was intended to reduce the incentive for people to abandon or by-pass access to effective protection in another country and travel on to Australia.³ In effect, unauthorised arrivals, even if they were subsequently assessed as meeting the refugee criteria, no longer received the same benefits as those resettled in Australia after assessment by the United Nations High Commissioner for Refugees (UNHCR).

8.9 A TPV is limited to 3 years duration. Refugees holding a TPV can apply for a PPV, which may be granted (after 30 months as a TPV holder) if they meet the relevant criteria. However, if on their journey to Australia an asylum seeker resided for 7 days or more in a country where they could have sought and obtained effective protection they are excluded from applying for a PPV – they can only apply for another TPV (the '7 day rule').⁴

Entitlements under TPV

8.10 TPV holders are provided with various benefits. DIMIA argued that the benefits available under to TPV holders fulfil Australia's obligations towards refugees, while still recognising the temporary nature of this visa class. These entitlements include:

- three year temporary residence in the first instance;
- access to Australia's public health services including Medicare benefits, Pharmaceutical Benefits Scheme (PBS), and public hospital benefits;
- permission to work (including Job Matching assistance through Centrelink);
- access to a limited range of welfare benefits (including Child Care Benefit, Special Benefit, Maternity and Family Allowances and Family Tax Payment); and

2 Between 1 July 1999 and 30 December 2005, 12,480 PPVs and 9,766 TPVs were granted. 64% of the PPVs were issued to former TPV and THV holders. 110 of the 9,766 TPVs were granted to applicants for a further protection visa. Of those 110, 13 were granted on the basis of the '7 day rule', while 97 were granted on the basis that the applicant had a conviction punishable by a penalty of 12 months imprisonment or more (Migration Regulation 888.222A). There were 1,440 TPV holders in Australia as at 30 December 2005. DIMIA provided these statistics to the committee on 13 January 2006.

3 DIMIA Fact Sheet no. 64a '*New Measures for Temporary Protection and Temporary Humanitarian Visa Holders*'. Accessed on DIMIA website 3 January 2006.

4 *Migration Regulations 1994*, 866.215(1). The '7 day rule' was introduced on 27 September 2001.

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- access to a limited range of settlement services (such as Integrated Humanitarian Settlement Strategy and Programme of Assistance for Survivors of Torture and Trauma).⁵

8.11 Importantly, a TPV does not allow the holder to sponsor family members nor does it provide any right of re-entry if they depart Australia.

Criticism of TPV regime

8.12 Many submissions and witnesses were critical of Australia's use of a temporary protection visa regime and some suggested that Australia could be in breach of its obligations under the Refugee Convention.⁶

8.13 There was a widespread belief among submitters that if an asylum seeker has been found to satisfy the criteria of a refugee, as defined by the Refugee Convention, they should be granted a PPV. The Law Society of South Australia (LSSA) pointed out that Australia is the only country in the world which uses a temporary protection visa regime:

Australia is the only country to grant temporary status to refugees who have been through a fully adjudicated process and have been found to be refugees according to the 1951 Refugees Convention definition. Australia's approach is at odds with the United Nations High Commissioner for Refugees (UNHCR) Handbook, which emphasises the importance of providing refugees with the assurance that their status will not be subject to constant review in the light of temporary changes in their country of origin.⁷

8.14 The main criticism of the TPV was that, because visas are only for a limited period of 3 years, it prolongs fear and uncertainty for asylum seekers. Before the expiry of their TPV, the person must re-apply for a further protection visa, requiring a full re-examination of their case. This means that TPV holders live in a constant state of uncertainty, which often adversely affects their mental health. The LSSA claimed that:

The impact of the TPV regime and extended processing periods on applicants is enormous ... Lawyers/migration agents and mental health professionals who work with TPV holders report a high incidence of mental health problems in this client base ... Research carried out by the University of New South Wales supports this, with preliminary findings showing that refugees placed on TPVs have a 700% increase in risk for

5 DIMIA, *Submission 205*, p. 27.

6 For example, Edmund Rice Centre for Justice and Community Education, *Submission 151*, p. 7.

7 Law Society of South Australia, *Submission 110*, pp 1-2.

developing depression and post-traumatic stress disorder compared to refugees with Permanent Protection Visas (PPVs).⁸

8.15 Some of the strongest criticism of the TPV regime was aimed at the prohibition on sponsoring family members and the ban on re-entry if the TPV holder leaves Australia.⁹

8.16 Submitters argued that the restrictions on family reunion and travel have a highly detrimental effect on all family members, both in Australia and overseas, which is a major contributing factor to deterioration in the mental health of asylum seekers. This policy can also impact on families when they are finally reunited, as explained by the Brotherhood of St Laurence:

It also creates havoc later when families that have been forcibly separated are reunited and welfare agencies are left to clean up the mess. Another unintended consequence relates to TPV minors who, because of the extended periods – it is not 36 months but much longer than that – move out of their minor status into adult status. That means that they cannot then sponsor their families as they fully expected they would be able to do, and therefore have to use other provisions which are very costly.¹⁰

8.17 The UNHCR noted that the TPV regime was introduced in response to a large influx of unauthorised arrivals, rather than to deal with individuals or small numbers of unauthorised arrivals. The UNHCR's main concerns about Australia's TPV regime are:

Our concerns about the existing laws on temporary protection visas and temporary humanitarian visas are that they deny an entitlement to family reunion, they provide no right to re-enter Australia if they leave and that they are not eligible to receive convention travel documents.¹¹

8.18 Another criticism of the TPV regime was the open-ended nature of its application. The LIV pointed out that refugees are often TPV holders for many years, not just three. The LIV said:

The intended three year duration for these visas has often blown out, and there are many people who have only obtained permanent visas after five or six years in Australia. When their spouses and children are in limbo overseas this can have a devastating impact on their family relationships,

8 Law Society of South Australia, *Submission 110*, p. 2. See also Ms Rosemary McKenry, *Submission 2*, p. 2; Ms Sue Hoffman, *Submission 37*, p. 2; Ms Helena Leeder, *Submission 46*, p. 1;

9 See, for example, Ms Sue Hoffman, *Submission 37*, p. 1; Ms Genevieve Caffery, *Submission 78*, p. 1; Ms Amanda Kube, *Submission 107*, p. 1; LSSA, *Submission 110*, p. 2; LIV, *Submission 206*, p. 16; Brother of St Laurence, *Submission 175*, p. 3; NCCA, *Submission 179*, p. 25.

10 *Committee Hansard*, 27 September 2005, pp 34-35.

11 *Committee Hansard*, 7 October 2005, p. 35.

and the delay and uncertainty in the meantime are also recognised to have caused or exacerbated mental health problems.¹²

8.19 This criticism was echoed by Ms Sarina Greco of the Ecumenical Migration Centre with the Brotherhood of St Laurence. She advised the Committee:

... the temporary protection visa is not for 36 months at all. On average, people are on temporary protection visas for between five and eight years and this has catastrophic consequences for people who have enormous barriers to their settlement because of that policy, the lack of support and the intended exclusions that it carries.¹³

8.20 The TPV regime was described by LSSA as a costly and inefficient use of resources because the same refugee application has to be re-assessed a number of times. The LSSA said:

In addition to the obvious human cost, the economic cost of TPV system and prolonged decision making process are also significant. Each individual claim must be evaluated at least twice, possibly more if the decision is appealed, necessitating the inefficient allocation of resources.¹⁴

8.21 Some submissions argued that if the TPV regime is retained the burden of proof should be reversed – that is, when a TPV comes up for review it should be DIMIA's responsibility to prove that the refugee's protection is no longer required. In that regard LSSA suggested:

The appropriate approach is to continue the prior recognition of refugee status unless there have been fundamental, stable and durable changes in the country of origin. Decision makers should be required to determine in the first instance whether such fundamental and durable changes have occurred, rather than requiring applicants to again prove themselves to be in need of protection.¹⁵

8.22 Several submissions and witnesses described the TPV's '7 day rule' as harsh and inhumane.¹⁶ As described above, the operation of the rule prevents TPV holders applying for permanent protection if, before arriving in Australia, they resided continuously for at least 7 days in a country where they could have sought and obtained effective protection. Such TPV holders can only apply for another TPV when their current visa expires which means that refugees in that situation may never obtain family reunion or travel rights.

12 Law Institute of Victoria, *Submission 206*, pp 15-16.

13 *Committee Hansard*, 27 September 2005, pp 34-35.

14 Law Society of South Australia, *Submission 110*, p. 2.

15 Law Society of South Australia, *Submission 110*, p.2. See also *Submission 204*, p. 17.

16 See, for example, UNHCR, *Submission 74*, pp 5-7; LSSA, *Submission 110*, p. 6; Albany Community for Afghan Refugees, *Submission 177*, p. 3; SBICLS, *Submission 200*, p. 8.

8.23 In relation to the 7 day rule, the South Brisbane Immigration and Community Legal Service (SBICLS) noted:

The result of the 7 day rule may mean that refugees are eligible for continual temporary visas and never be eligible for family reunion. Even if the Minister eventually allows a permanent visa (eg via exercise of discretion in Reg 866.215(2)) the delays may mean that the refugees spouse and children have become lost or have died in the ensuing period.¹⁷

8.24 SBICLS recommended that 'the 7 day rule for temporary protection visas be abandoned. Failing this, applicants subject to the 7 day rule should be able to sponsor immediate family'.¹⁸

8.25 The UNHCR raised three specific concerns in relation to the operation of the 7 day rule. It said:

Our first concern is that it creates a potential for rolling temporary protection visas ... The second is that there is an overly broad interpretation of what is effective protection by other states. The third and final one is the reference to the presence of an UNHCR office in a country providing the availability of effective protection ... UNHCR's position remains that the presence of a UNHCR office does not afford any form of effective protection. It is there to support the government of that country and only that government can afford effective protection.¹⁹

8.26 The Community Relations Commission for a multicultural NSW (CRC), which presented a coordinated submission on behalf of NSW Government agencies, highlighted the growing burden on community organisations. It noted that TPV holders (including children) are given only limited access to a range of Commonwealth-funded settlement services such as accommodation, English language programs, and psychological and physical health services. This, it argued, 'has placed a heavy burden on community organisations struggling to meet the special needs of refugees who are TPV holders and who are left outside the mainstream humanitarian settlement services'.²⁰

8.27 The Law Institute of Victoria (LIV) recommended that all persons holding a TPV for more than two years be given a PPV. It said:

Temporary Protection visas create substantial uncertainty and continuing fear in those to whom they are granted. They fear being returned to their country of origin after three years or at a future point if the Government determines, possibly for political reasons, that their country of origin is safe enough for the TPV holder's return. In the case of Afghanistan and Iraq,

17 South Brisbane Immigration and Community Legal Service, *Submission 200*, p. 8.

18 South Brisbane Immigration and Community Legal Service, *Submission 200*, p. 8.

19 *Committee Hansard*, 7 October 2005, p. 35.

20 Community Relations Commission for a Multicultural NSW, *Submission 232*, p. 14.

this is clearly not the case, yet hundreds of Iraqi and Afghan nationals remain on TPVs awaiting a determination on their application for Permanent Protection visas.²¹

8.28 A large number of submissions recommended that the TPV regime be abolished. The common strand in their argument was that if an asylum seeker is assessed to be a legitimate refugee he or she should be offered permanent protection with the full range of rights and entitlements available to people on PPVs. For example, the Australian Political Ministry Network Ltd (APMN) said:

On a successful determination, refugees should be offered permanent protection and the full range of rights and entitlements available to people on permanent protection visas, including settlement services, travel rights and family reunion.²²

8.29 Similarly, the National Council of Churches in Australia (NCCA) recommended that everyone who is assessed as a refugee be given a permanent visa:

The NCCA recommends that the Government grant permanent residency to all refugees presently holding Temporary Protection Visas and in the future award immediate permanent residency status to those asylum seekers determined to be refugees.²³

8.30 The Victorian Government believes that holders of TPVs should be converted to PPVs. It advised the Committee that:

At the May 2005 Meeting of the Ministerial Council for Immigration and Multicultural affairs (MCIMA), Victoria proposed a resolution that the Commonwealth grant permanent resident status to all TPV holders. Victoria's paper noted that many TPV holders have been living in Australia for over 5 years with no certainty as to their future. They have been separated from their families and have been unable to access educational opportunities or services available to other Australians. Temporary Protection Visas demonstrate a lack of compassion for people who have been persecuted in the past or who have a well-founded fear of persecution if they were to return to their own country.²⁴

8.31 The committee notes that the Government has acted to amend the Migration Act and Regulations to allow certain TPV holders to be granted various mainstream or non-humanitarian visas. This was in recognition that some current and former TPV holders had made important contributions to the community during their time in Australia, particularly in rural and regional areas and some have special skills that

21 Law Institute of Victoria, *Submission 206*, pp 15 – 16.

22 Australian Political Ministry Network Ltd, *Submission 164*, p. 8. Similar comments were expressed by SAVE – Australia Inc., *Submission 203*, p. 5.

23 National Council of Churches in Australia, *Submission 179*, p.2. Other submissions which call for the abolition of the TPV regime include LIV, *submission 206*, p. 16.

24 Government of Victoria, *Submission 227*, p. 2.

would otherwise qualify them for a migration visa. It was also recognised that some TPV holders have established strong links to Australian nationals and may be able to qualify for the grant of a mainstream visa.²⁵

Committee view

8.32 There is no doubt that the overwhelming view put to the committee by State Governments, refugee groups, and church and charitable groups favoured the abolition of the TPV regime, which was described as harsh and inhumane. However, the Government sees the TPV regime as an integral part of Australia's strategy to limit and control the number of unauthorised arrivals. It believes that the TPV regime, together with mandatory detention and off shore processing, is an effective deterrent to large influxes of boat people. It can also be argued that providing such a deterrent is also in the wider interests of illegal arrivals, since it limits incentives for people to risk using people smugglers, with all of the attendant risks.

8.33 Given that the number of unauthorised arrivals has fallen to very low numbers in recent years, the committee considers that the time is right to abolish the operation of the TPV regime. Although there is little real evidence of its deterrent value, the TPV regime may have acted as a deterrent to some. But there is no doubt that its operation has had a considerable cost in terms of human suffering. It may be arguable that such a measure was appropriate in a time of a large increase in the number of unauthorised arrivals but those circumstances no longer apply.

Recommendation 52

8.34 The committee recommends that the Temporary Protection Visa regime be reviewed. Specifically, the review should consider the possible abolition of the '7 day rule', and that all TPV holders be given the opportunity to apply for permanent protection visa after a specified period.

Bridging Visas

8.35 A bridging visa (BV) enables a non-citizen to lawfully stay in Australia during a period of transition. A BV is not considered to be a substantive visa. Temporary situations in which a BV might be granted include:

- while an application for a substantive visa is being processed by DIMIA;
- while a non-citizen is waiting for the outcome of a merits or judicial review;
- and

25 DIMIA Fact Sheet 64d, *New Onshore Visa Options for Temporary Protection and Temporary Humanitarian Visa Holders*, 24 August 2004. DIMIA, *Submission 205*, p. 24. The changes apply to current and former holders of certain sub-classes of Temporary Protection Visas and Temporary Humanitarian Visas who were in Australia on or before 27 August 2004.

- while a non-citizen who does not hold a substantive visa makes arrangements to leave Australia.

8.36 The migration regulations establish seven classes of BVs (Bridging Visa Class A; B; C; D; E; F; and R).²⁶ The conditions attached to a BV vary according to the class of visa applied for and the applicant's immigration status and personal circumstances at the time of application.

8.37 A person who arrives lawfully in Australia and subsequently claims asylum may be granted a bridging visa that provides them with lawful status and permission to remain in Australia during the processing of their application for a protection visa. The bridging visa ceases 28 days after notification of a decision that a person is not a refugee. If an application for review is lodged with the Refugee Review Tribunal (RRT) during that 28-day period, the bridging visa remains active for the duration of the RRT review. It ceases 28 days after notification of a decision by the RRT that a person is not a refugee.²⁷

8.38 The number of BVs in existence as at 30 June is shown in Table 8.1 below:

Table 8.1: Bridging visa classes A, C and E in effect as at 30 June

As at 30 June	BV – class A	BV – class C	BV – class E	Total all BVs
1999	28,650	4,719	4,555	38,436
2000	30,458	4,552	5,604	41,258
2001	27,134	3,950	6,967	38,583
2002	25,608	3,470	8,616	38,111
2003	22,692	2,866	8,605	34,539
2004	20,192	1,663	6,207	28,376
2005	14,689	1,458	7,927	24,364

Source: Figures provided to the Committee by DIMIA on 9 and 12 January 2006.

Note: Figures for Bridging Visa classes B, D and F not shown as they only represent about 1 per cent of the total. Bridging Visa Class R ('Removal Pending Bridging Visa - RPBV) came into existence on 11 May 2005. There were no RPBVs granted during 2004-05. Thirty one RPBVs were granted between 1 July 2005 and 12 January 2006.

26 For details of the seven classes of bridging visas see Chapter 1, p. 12, Footnote 28. These definitions are taken from DIMIA, *Submission 205*, p. 10.

27 DIMIA, *Submission 205*, p. 29.

8.39 The committee received a number of criticisms in relation to bridging visas, specifically in relation to Bridging Visa Class E (BVE) and the Removal Pending Bridging Visa (RPBV).

Bridging Visa Class E

8.40 A Bridging Visa Class E (BVE) is available to certain unlawful non-citizens who are located by DIMIA and who may be applying for visas or making arrangements to depart Australia.²⁸ That is, a BVE is for people who are detected as unlawful non-citizens and who either make arrangements to leave Australia or make an application for a substantive visa. There are two sub-classes within BVE: 'general' and 'protection visa applicant'. The latter is available to some people who have been refused or have bypassed immigration clearance and who have applied for a protection visa.

8.41 People in immigration detention can apply for a BVE and if granted they must be released from detention.

8.42 Depending on the individual circumstances, a BVE may include a 'no work' condition. Protection visa applicants who did not lodge their application within 45 days of their arrival, or whose application is under judicial review, can not get permission to work as part of their BVE.²⁹

8.43 Table 8.1 above indicates that the number of BVEs has remained at a relatively high level over the last 5 years. BVEs represent an increasing proportion of total bridging visas granted, rising from 12 percent as at 30 June 1999 to 33 per cent as at 30 June 2005.

Criticism of BVE

8.44 The conditions commonly applied to BVEs were severely criticised by several submitters. In particular, the prohibition on undertaking work, including voluntary work, and the exclusion from services such as Medicare, rental assistance and transport assistance.³⁰

8.45 Because of their inability to work and to access Commonwealth support services, BVE visa holders are released into the community without adequate means of support and may be left destitute. To survive, BVE holders are forced to seek assistance from State and Territory government agencies and particularly from

28 DIMIA, *Submission 205*, p. 10.

29 J. Burn and S Reich, *The Immigration Kit*, 7th Edition, pp. 154 – 158.

30 Asylum Seekers Centre Inc., *Submission 201*, p. 3; Ms Hoa Pham, *Submission 35*, p. 1; LSSA, *Submission 110*, p. 7. Without work rights (and tax file numbers) asylum seekers do not have access to Medicare.

community and charitable organisations.³¹ For example, Mr Ahmed Al Kateb, a stateless Palestinian asylum seeker, stated that he is :

... presently in community detention on a Bridging Visa E (50). Although I am no longer in an Immigration Detention Centre, having been released from the Baxter facility in April 2003, I simply moved from a “small detention” to “big detention”. My life is hopeless. I was psychologically damaged by my 2 years experience in detention and my condition gets worse, not better because there is no solution in sight to my problem. DIMIA has washed its hands of me and is not taking any action to help me find a solution. I am not allowed to work and not entitled to any welfare benefits. I am full of despair and often consider committing suicide.³²

8.46 Ms J Turner, a volunteer with the Asylum Seekers Resource Centre Melbourne, made a strong plea for greater assistance to BVE holders:

... the daily experiences of people in our community surviving somehow (just) on Bridging Visa E without access to the right to work (even volunteer work), to Medicare and health care, to any refugee programs, to schools and education, even to concession rates on public transport. They have no dignity whatsoever, no hope and no ability to trust DIMIA advice or outcomes. These people in contemporary Australia are literally starving, dependent on charity for food and a roof over their heads, for an unlimited and uncertain period of time.³³

8.47 A number of submissions argued that the welfare of BVE holders is the responsibility of the Commonwealth Government. However, by denying them access to income support and welfare services, the Commonwealth has effectively shifted this responsibility onto State and Territory governments and community and charity organisations.³⁴

8.48 The Catholic Migrant Centre maintained that any asylum seeker who is released into the community on a visa should be given appropriate support. They said:

Currently, when a detainee is released into the community on a bridging visa ... the Australian government makes no provision for the basic needs of that person (accommodation, income, medical care etc). The bridging visa holder is entirely reliant upon the Australian community and charity

31 DIMIA provided funding of \$3.4 million in 2004-05 to the Asylum Seekers Assistance Scheme (ASAS) administered by the Red Cross. To be eligible for ASAS help, applicants must hold a bridging visa and be in financial hardship. Usually ASAS funding is only provided after 6 months have elapsed from when they applied for a protection visa. The assistance ceases when the protection visa application is decided. *The Immigration Kit*, pp. 456-457.

32 Mr Ahmed Al Kateb, *Submission 86*, p. 1.

33 Ms Julie Turner, *Submission 104*, p.1.

34 Mr Roland Good, *Submission 1*, p. 1; Ballarat Refugee Support Network, *Submission 52*, p. 4; Mr Don Stokes, *Submission 64*, p. 2; Pilgrim Circle of Friends 27, *Submission 79*, p. 3; APMN, *Submission 164*, p. 8; Buddies Refugee Support Group, *Submission 167*, p. 2; Government of Western Australia, *Submission 226*, p. 1.

for his or her day to day survival ... The provision of adequate support for asylum seekers should be the responsibility of government. It is totally inappropriate to expect the community and charities to provide for the most basic and fundamental needs of asylum seekers in the community.³⁵

8.49 The Uniting Church commented:

Typically, these vulnerable people are denied working rights and access to the income support scheme administered through the Australian Red Cross as a result of their BVE status. Additionally, without a valid tax file number these asylum seekers are unable to access the Medicare scheme and are cut off from access to fundamental and necessary health and medical services.³⁶

8.50 The St Vincent de Paul Society highlighted the plight of children and the sick in these situations:

The plight of people within the community on Bridging Visa E with no work rights, medical care and welfare support is quite desperate and of grave concern to the Society, especially given that in many cases children are also affected ... It is a particular concern when individuals are released for health reasons without a health management plan, or the resources to provide health care, being put in place prior to their release.³⁷

8.51 The NSW Refugee Health Service (RHS) advised the committee that it sees many patients who are ineligible for Medicare and income support because, although arriving in Australia on a valid visa, they failed to lodge their application for refugee status within 45 days of arriving in Australia. Besides the limited services offered by RHS such people had few options:

Other options include charity run organizations or a number of general practitioners, dentists and other willing to see patients for free or for a nominal cost. However such understanding health professionals and services can rapidly become overwhelmed by the need.³⁸

8.52 The RHS argued that the denial of access to Medicare could have serious consequences not only for the asylum seeker but also the community at large. For example, the early diagnosis of communicable diseases, such as tuberculosis, may be delayed with dire implications for both the patient and the community. The RHS recommended that asylum seekers living in the community should be given work rights and Medicare access until their refugee assessment has been completed. However, if that is not acceptable they recommend that, at least:

- ASAS funding should be expanded to cover preventive and curative health care costs for anyone in need;

35 Catholic Migrant Centre, *Submission 165*, p. 3.

36 Uniting Justice Australia and Asylum Seeker Project Hotham Mission, *Submission 190*, p. 15.

37 St Vincent de Paul Society, *Submission 147*, p. 2.

38 Sydney South West Area Health Service, *Submission 209*, p. 4.

- asylum seekers should be given access to PBS medication; and
- Commonwealth/State agreements should allow hospitals to provide free care for asylum seekers on humanitarian grounds.³⁹

8.53 The Community Relations Commission for a multicultural NSW (CRC) recommended that the assessment of visa applications for asylum seekers on bridging visas be expedited. It gave an example of pressure placed on the State's housing resources by holders of bridging visas requiring emergency assistance to tide them over while their visa application is being assessed:

The NSW Department of Housing also provides housing assistance to homeless asylum seekers who are on bridging visas, while they are awaiting resolution of their permanent residency. A number of these cases may take lengthy periods of time to resolve. During that time asylum seekers are subject to high levels of hardship as they have no income and are not permitted to work. These delays place additional pressures on State government resources. A speedier determination of visa status would alleviate some of this pressure.⁴⁰

8.54 The Migration Institute of Australia (MIA) noted that bridging visas normally exclude work rights, access to Medicare and ASAS. Exclusion from the normal means of support can cause great hardship, especially when there are protracted delays. It was argued that this group of people are vulnerable to homelessness, illness and extreme poverty; and their children are denied education and basic health care. The MIA recommended that the Migration Act be amended to require that all bridging visas include work rights⁴¹

Removal Pending Bridging Visa (RPBV)

8.55 A RPBV enables the release from immigration detention of certain unlawful non-citizens who are awaiting removal from Australia and are invited by the Minister to apply. The Minister's offer is open for 7 days.

8.56 The key eligibility requirements for RPBV are that the person is in immigration detention; any visa applications made by the person have been finally determined; and the person's departure from Australia is not reasonably practicable for a time but the Minister is satisfied that the person will do everything possible to facilitate their removal from Australia.⁴²

8.57 RPBV holders are entitled to benefits similar to those accorded to TPV holders. The RPBV does not allow for sponsorship of family members or provide any

39 Sydney South West Area Health Service, *Submission 209*, p. 5.

40 Community Relations Commission for a Multicultural NSW, *Submission 232*, p. 16.

41 Migration Institute of Australia, *Submission 144*, p. 3.

42 <http://www.immi.gov.au/facts/85removalpending.htm>

right of re-entry if the visa holder departs Australia. Access to the visa is not merits reviewable.⁴³

8.58 The RPBV came into operation on 11 May 2005. No RPBVs were granted in May or June 2005. Thirty one RPBVs were granted between 1 July 2005 and 12 January 2006.

Criticism of RPBV

8.59 This visa class attracted criticism on the grounds that

- the period (7 days) in which the Minister's offer must be accepted is too short;
- the requirement to agree to do 'everything possible' to facilitate removal from Australia is ill defined and creates significant uncertainty;
- a person can be removed at any time; and
- forcible repatriation is not reviewable.

8.60 The Uniting Church expressed concern that a person's desire to leave detention might unduly influence them to agree to an offer of such a visa, even though it may not be in their longer-term interest to do so.⁴⁴

8.61 The Asylum Seekers Resource Centre (ASRC) said that release from detention on an RPBV is clearly preferable to remaining in detention for a detainee who has exhausted all legal avenues. The ASRC expressed its general support for the RPBV based on the recent removal of two major defects of the visa — the precondition requiring detainees to sacrifice their legal rights to apply to remain in Australia, and the precondition forcing detainees to provide a signed undertaking agreeing to co-operate with arrangements to remove them from Australia. However, the ASRC remains concerned about two other aspects of the RPBV — the fact that RPBV holders can be removed from Australia at short notice and at any time, and the non-reviewability of forcible repatriation arrangements.⁴⁵

Committee view

8.62 The committee's main concern is the financial hardship faced by asylum seekers, particularly those with families and children, who are granted a BVE with no work rights and inadequate access to basic services. A policy which renders a person destitute is morally indefensible and an abrogation of responsibility by the Commonwealth.

43 For details of entitlements see <http://www.immi.gov.au/facts/85removalpending.htm>

44 UJA and ASPHM, *Submission 190*, 18.

45 Asylum Seekers Resource Centre, *Submission 214*, p. 20.

8.63 The committee notes a recent decision of the House of Lords, which held that removal of subsistence support from asylum seekers leading to destitution breached their right not to be subjected to inhuman or degrading treatment.⁴⁶

8.64 In the absence of a constitutional or statutory bill of rights, such issues cannot be tested in the courts. Primary responsibility for ensuring that minimum standards essential to the survival and wellbeing of all people in Australia rests with the Government and the Parliament.

8.65 The necessity to rely on State/Territory agencies and community and charitable organisations for service essential to survival represents a significant cost-shifting by the Commonwealth. During Hotham Mission advised the Committee:

For the past 3 years, the Victoria State Government has provided emergency relief funding to not-for-profit charitable agencies working with asylum seekers in the Victorian community who are denied the right to work, Medicare or any form of income due to federal policies introduced in 1997. An allocation of \$300,000 has been provided over the past 3 years to Network of Asylum Seeker Agencies Victoria (NASAVic) and distributed by the Victorian Council of Social Services through the Department of Human Services.⁴⁷

8.66 The committee also notes that the Senate Select Committee on Ministerial Discretion in Migration Matters considered the issue in its report of March 2004. That committee concluded that visas with work rights should be available for all applicants during the appeal periods, up to the time of an outcome of a first request for ministerial intervention (to discourage repeated appeals as a strategy to prolong their stay in Australia). The Select Committee report also recommended that children who are seeking asylum should have access to ASAS or some other form of social security support throughout the period of any requests for ministerial intervention.⁴⁸

8.67 This committee endorses the findings and recommendations of the Select Committee on Ministerial Discretion in Migration Matters, particularly as they relate to bridging visas. The relatively high number of BVEs makes the issue more pressing.

Recommendation 53

8.68 The committee recommends that all holders of Bridging Visas Class E should be given work rights.

46 *Adam R (Limbuella, Tesema v Secretary of State for the Home Department* [2005] UKHL 66 (3 November 2005) accessed at http://www.bailii.org/uk/cases/UKHL/2005/UKHL_2005_66.html on 18 January 2006.

47 Response by Hotham Mission to Question on Notice No. 1, *Committee Hansard*, 28 September 2005, p. 36.

48 Senate Select Committee on Ministerial Discretion in Migration Matters, March 2004, pp. 78 – 80.

8.69 If the Government rejects this recommendation, the Committee considers that the current requirements should at least be loosened. In that regard it recommends that the '45 day rule' be extended to 90 days.

Recommendation 54

8.70 The committee recommends that if the Commonwealth Government rejects the proposal that all Bridging Visa holders have work rights, the Committee recommends that the current '45 day rule' be doubled to 90 days to give people more time to apply for a protection visa.

Humanitarian Program – cost shifting

Background

8.71 The Commonwealth has constitutional responsibility for immigration matters.⁴⁹ The committee considers that part of this responsibility is to make provision for the health and welfare of immigrants, including asylum seekers. However, as discussed under the section on Bridging Visas, certain asylum seekers are released into the community on visas which provide limited Commonwealth support. Many submitters argued that the Commonwealth is effectively abrogating its responsibilities to those visa-holders, and cost-and-responsibility shifting to the States/Territories and charitable organisations.

8.72 The same allegation was made in relation to the provision of support for refugees entering Australia lawfully under the Humanitarian Program. Submissions from the Governments of New South Wales, Victoria and Western Australia contended that Commonwealth support for entrants under the Humanitarian Program has not kept pace with funding requirements.

8.73 The offshore resettlement component of Australia's Humanitarian Program includes two categories of permanent visa, viz:

Refugee — for people who are subject to persecution in their home country and who are in need of resettlement. The majority of applicants who are considered under this category are identified and referred by the UNHCR to Australia for resettlement.

Special Humanitarian Program (SHP) — for people outside their home country who are subject to substantial discrimination amounting to gross violation of human rights in their home country. A proposer (or sponsor) who is an Australian citizen, permanent resident or eligible New Zealand citizen, or

49 *Commonwealth of Australia Constitution Act*, ss. 51(xxix).

an organisation that is based in Australia, must support applications for entry under the SHP.⁵⁰

8.74 A permanent offshore humanitarian visa (refugee or SHP) gives the holder:

- Permanent residence
- Access to Australia's public health services through Medicare
- Permission to work
- Access to welfare benefits
- Access to the Integrated Humanitarian Settlement Strategy
- Permission to travel and enter Australia for five years after grant; and
- Eligibility to apply for citizenship after two years permanent residence.⁵¹

8.75 Table 8.2 shows the number of visas granted, by major category, under Australia's Humanitarian Program.

50 DIMIA website accessed 5 January 2006, Fact Sheet 60.
<http://www.dimia.gov.au/facts/60refugee.htm> Australia's Humanitarian Program also includes two types of temporary visa, but the discussion here relates more to permanent visa categories. Note the term 'proposer' is used by DIMIA in relation to offshore humanitarian visas, while the term 'sponsor' is used for other visa categories.

51 DIMIA, *Submission 205*, p. 31.

Table 8.2: Australia's Humanitarian Program, visas granted by major category

	Refugee	Special Humanitarian Program	Other*	Onshore Protection	Total visas issued under Humanitarian Program
1998-99	3,988	4,348	1,190	1,830	11,356
1999-2000	3,802	3,051	6,549	2,458	15,860
2000-01	3,997	3,116	1,043	5,577	13,733
2001-02	4,160	4,258	46	3,885	12,349
2002-03	4,376	7,280	3	866	12,525
2003-04	4,134	8,927	2	788	13,851
2004-05	5,511	6,755 [^]	17	895	13,178

Source: Derived from DIMIA Fact Sheet 60 'Australia's Refugee and Humanitarian Program', accessed on website 5 January 2006.

Other* — includes Special Assistance Visas, Safe Haven Visas, and Temporary Humanitarian Visas. 5,900 Safe Haven visas were issued in 1999-2000 (4,000 to Kosovars offshore and 1,900 to East Timorese onshore). That was the only year Safe Haven Visas have been issued since 1998-99.

[^] The total of 6,755 SHP visas granted in 2004-05 includes 170 visas granted onshore to East Timorese and others. A total of 12,096 offshore Refugee and SHP visas were granted in 2004-05.

8.76 DIMIA provides services to permanent humanitarian visa holders through two main programs — the Integrated Humanitarian Settlement Strategy (IHSS) and the Community Settlement Service Scheme (CSSS).

8.77 IHSS provides intensive settlement support to help humanitarian entrants achieve self sufficiency as soon as possible. IHSS services are generally provided for up to six months, but may be extended for particularly vulnerable clients. Services provided under the IHSS include case coordination, information and referrals; on-arrival reception and assistance; accommodation services; and short term torture and trauma counselling services.

8.78 IHSS services are delivered by service providers contracted to DIMIA – often State and Territory Government agencies such as Departments of Housing, Education and Health. Volunteer groups also work with service providers to support entrants and assist them to settle into the local community.

8.79 When humanitarian entrants exit the IHSS, they are referred to general settlement services funded under the Community Settlement Services Scheme (CSSS) and provided through Migrant Resource Centres, Migrant Service Agencies and organisations.⁵²

8.80 The main complaint of the States is that the Commonwealth has been slow to recognise and respond to the many unique and unanticipated problems brought about by the changing make-up of humanitarian program entrants.

8.81 Africans now receive about 70 per cent of offshore humanitarian visas, compared to just 16 per cent seven years ago (see Table 8.3). That dramatic change in the demographic make-up of the humanitarian intake has involved many issues which the States assert require more input by the Commonwealth.

8.82 The top five countries of birth for offshore humanitarian visas granted in 2004-05 were: Sudan – 5220; Iraq – 1,589; Afghanistan – 1,291; Liberia – 868; and Sierra Leone – 751.⁵³ In contrast in 1998-99 the top five countries of birth were: Former Yugoslavia – 2,202; Iraq – 1,545; Croatia – 1,225; Bosnia-Herzegovina – 1,180; and Afghanistan – 660.⁵⁴

52 DIMIA website accessed 5 January 2006, Fact Sheet 66, <http://www.dimia.gov.au/facts/66ihss.htm>

53 DIMIA website accessed 5 January 2006, Fact Sheet 60, <http://www.dimia.gov.au/facts/60refugee.htm>.

54 Figures provided to the Committee by DIMIA on 10 January 2006.

8.83 Table 8.3 shows how the intake of the offshore part of the humanitarian program has changed:

Table 8.3: Offshore resettlement program (Refugee & SHP) visa grants, by region of origin

	Europe (%)	Middle East & SW Asia (%)	Africa (%)	Asia & Americas (%)	Total offshore Refugee and SHP visas granted (number)
1998-99	50	31	16	3	9,526
1999-2000	46	29	23	2	7,502
2000-01	43	27	25	5	7,992
2001-02	32	32	33	3	8,458
2002-03	10	40	29	1	11,656
2003-04	3	24	71	2	11,802
2004-05	-	26	70	4	12,096

Source: Derived from DIMIA Fact Sheet 60 'Australia's Refugee and Humanitarian Program', accessed on website 5 January 2006.

Note: percentages in the table have been rounded.

8.84 Table 8.4 shows the distribution by State/Territory of entrants under the Humanitarian Program in 2004-05.

Table 8.4: Distribution by State/Territory of entrants under the Humanitarian Program in 2004-05.

New South Wales	3,844	Victoria	3,829
Queensland	1,510	South Australia	1,519
Western Australia	1,762	Tasmania	448
Northern Territory	185	Australian Capital Territory	250

Source: Figures provided to the Committee by DIMIA on 9 January 2006.⁵⁵

8.85 A number of specific issues were raised by the NSW, Victoria and Western Australia Governments to illustrate the extent of the alleged cost shifting by the Commonwealth. The submission from NSW was particularly comprehensive and provided the basis for much of the following discussion.⁵⁶

Changing settlement needs

8.86 The NSW and Western Australian Governments both highlighted the increased numbers of humanitarian entrants arriving from Africa with their unique and complex settlement needs. The WA submission noted:

These recently arrived refugees, many of whom have spent years in refugee camps, require a higher level of intensive service to meet their complex health, education and housing needs.⁵⁷

8.87 The Commonwealth's IHSS program generally provides support services for up to 6 months. The States argue that timeframe may be sufficient for entrants from

55 The figures are based on DIMIA's IHSS database, derived from Graph 8, Chapter 4 in DIMIA's 'Blue Book' and can be found at http://www.immi.gov.au/search_for/publications/humanitarian_support_2005/index.htm DIMIA explained that the figures in Table 8.3 may differ slightly from the numbers shown in Table 8.2 because of delays in visa holders actually arriving in Australia for resettlement.

56 The State submissions are NSW - *Submission 232*, Victoria – *Submission 227*, and Western Australia – *Submission 226*.

57 Government of Western Australia, *Submission 226*, p. 4.

Europe, but it is insufficient for entrants from more less developed regions. The WA submission said:

Consultations with the community and service providers reveal the gross inadequacy of this time limit for refugees and humanitarian entrants who have complex needs and require more ongoing settlement assistance.⁵⁸

8.88 There are severe shortages of experienced case workers and interpreters with the required language skills, and few local African-focused community organisations to assist with new arrivals.

8.89 The NSW Government recommended greater consultation between the Commonwealth and States / Territories about future groups of humanitarian entrants so that pre-arrival planning can be improved and an extension of the IHSS program both in terms of time and range of services provided to better cater for refugee needs, especially those coming from Africa.⁵⁹

New Settlement Grants Program

8.90 The NSW Government submission noted that from July 2006 a new Commonwealth Settlement Grants Program will replace the current Migrant Resource Centres (MRC) / Migrant Service Agencies (MSA) Core Funding and Community Settlement Service Scheme (CSSS). The new program will be an annual application-based grants program. Funding, including overheads, will be provided to successful organisations on a project basis for one, two, or three years.

8.91 The submission voiced a number of concerns with the new approach, such as the need for longer funding cycles (of at least 3 years) to maintain consistent services to immigrant communities. NSW recommended that the Commonwealth closely monitors the impact of the change in program funding and arrangements on the quality and range of services provided to migrants and new entrants.⁶⁰

The role of 'proposers' under the Special Humanitarian Program

8.92 A proposer is an essential requirement for a person to be considered for entry to Australia under the Special Humanitarian Program (SHP), but not under the Refugee category (although the inclusion of a proposer can help the assessment of an application for an offshore refugee visa).

8.93 Proposers of successful applicants under SHP (or the applicants themselves) must pay for the applicant's travel to Australia. For applicants in the Refugee category, the Australian Government pays this cost.

58 Government of Western Australia, *Submission 226*, p. 4. See also Community Relations Commission for a multicultural NSW, *Submission 232*, p. 37.

59 Community Relations Commission for a Multicultural NSW, *Submission 232*, p. 37.

60 Community Relations Commission for a Multicultural NSW, *Submission 232*, p. 33.

8.94 On the entrant's arrival in Australia, the proposer is expected to assist in the settlement of the entrant, including:

- meet the entrant at the airport;
- provide for the entrant's immediate accommodation needs;
- assist the entrant to find permanent accommodation; and
- familiarise the entrant with services and service providers such as Centrelink, banks, public transport, translating and interpreting services, health care, permanent housing, education, employment services and childcare.⁶¹

8.95 The NSW Government submission raises a number of issues in relation to the provision of support by proposers to entrants under SHP. Experience has shown that many proposers cannot fulfil their obligations, leaving State agencies to pick up the pieces. The submission said:

In many cases those proposers, who are former humanitarian entrants, face severe hardships in fulfilling the financial and other responsibilities cast upon them when they sponsor family members to enter Australia. While the desire to reunite families and bring relatives out of camps and other conditions of hardship is understandable, the current immigration system, which places significant financial responsibility onto proposing parties, severely disadvantages and places people – both entrants and proposers – under severe financial pressure ... The financial obligation on sponsored families to repay the debt incurred by their proposers, such as the cost of airfares, is currently forcing many secondary aged students to leave school early and seek work⁶²

8.96 The NSW submission argues that SHP entrants often turn up in locations without any prior notice or consideration as to the availability or appropriateness of local services, such as schooling facilities in rural and regional areas.

8.97 While acknowledging recent DIMIA initiatives to improve support to SHP entrants, the NSW submission expressed concern that the needs of SHP entrants will not be adequately met. The submission strongly recommended greater consultation and coordination between Commonwealth, State and Local Government agencies and community service providers in relation to SHP entrants. The Commonwealth should more closely monitor actual support provided by proposers, and be prepared to quickly intervene if proposers are found not to be fulfilling their obligations.⁶³

61 DIMIA Fact Sheet 'Sponsoring (Proposing) a Refugee or Humanitarian Entrant', DIMIA website accessed 10 January 2006.

62 Community Relations Commission for a Multicultural NSW, *Submission 232*, pp. 31 - 32.

63 Community Relations Commission for a multicultural NSW, *Submission 232*, p. 33.

Health issues

8.98 The State Governments of NSW, Victoria and Western Australia (WA) all expressed concern at the impact on health services of relatively large numbers of African refugees arriving in Australia. The Victorian Government said:

There is a need for a review of the pre-arrival, post-arrival and longer term health needs of sub-Saharan refugees with respect to:

- Current arrangements for pre-departure medical assessment and treatment of refugees;
- Levels of funding support for State and Territory health services to undertake appropriate screening and specialist care; and
- The degree of Medicare support for the time and complexity required in the initial assessment of a refugee and their family, and for the continuing primary health care of newly arrived refugees with multiple complex health issues.⁶⁴

8.99 These sentiments were echoed by Western Australia which noted:

The volume, health care complexity, and acuity of newly arrived African refugees entering Australia have risen significantly over the last 12 months. The WA Department of Health is having to provide care and treatment for large groups of refugees (100+) from sub-Saharan Africa who are arriving with minimal notice, discussion, or new financial investment. Existing services cannot cope with the size of the groups, their multiple needs, and high acuity, creating an urgent need for an improvement in the health services provided.

The pre-departure medical assessments performed in Africa are of dubious accuracy and, in their current form, do not assist in the assessment of new arrivals. There is no pre-departure screening or treatment for acute malaria and no clear pathway for the required medical assessment within a short time frame after arrival.⁶⁵

8.100 The point was emphasised that several of the diseases suffered by these refugees are not common in Australia. That means normal general practitioners and even emergency departments of public hospitals are not equipped to handle such cases. This difficult situation is often exacerbated by communication difficulties caused by newly arrived refugees having little English and a shortage of appropriate interpreters.⁶⁶

8.101 The NSW Government submission emphasised that the health and welfare of refugees must be cared for, while the wider community must be protected from the

64 Government of Victoria, *Submission 227*, p. 3.

65 Government of Western Australia, *Submission 226*, p. 6. Apart from malaria, African refugees need to be screened for tuberculosis, HIV, gastrointestinal parasites and other tropical diseases.

66 Government of Western Australia, *Submission 226*, p. 6.

importation of infectious diseases. It is the Commonwealth's responsibility to ensure that these twin objectives are met.

8.102 All three State Governments argued that current Commonwealth funding for health services for refugees is totally inadequate. Although Medicare covers the cost of most of the blood tests undertaken, medications are often not covered by the Pharmaceutical Benefits Scheme (PBS), and there is no provision for the intensive use of staff resources (including clinical, specialist and pathology services) and the work involved with the follow-up of screening checks and treatment.⁶⁷

8.103 The NSW submission made a number of recommendations, including that the Commonwealth undertake an urgent review of the pre-departure, post-arrival and longer term health care needs of the sub-Saharan refugees. The submission argued that while this macro review is being undertaken the following changes should be introduced immediately:

- The Commonwealth to finance a comprehensive pre-departure medical assessment and treatment service for African refugees;
- The Commonwealth to provide additional funds to State and Territory Health Services to enable the provision of appropriate screening and specialist care and health liaison services; and
- The Commonwealth to introduce a Medicare item which reflects the time and complexity required in the initial assessment of a refugee and their family (similar to the Indigenous Health Check item), and a separate item for continuing primary health care of refugees with multiple complex health issues.⁶⁸

8.104 The NSW submission noted that refugees have often experienced extended periods of stress and trauma and as a result have acute counselling needs. Counselling organisations should employ appropriate bilingual case workers. Traditional counselling techniques and services should be reassessed to ensure that they are appropriate to newly-arrived refugees.⁶⁹

Housing issues

8.105 The NSW submission identifies housing as a major issue for entrants under the humanitarian program. The submission points out that many of the families are large (55 per cent of families assisted in 2003-04 had more than 5 members), and housing options for large families are limited in availability and cost in both metropolitan and regional areas. Furthermore, real estate agents are often reluctant to rent properties to newly-arrived immigrants.

67 Community Relations Commission for a Multicultural NSW, *Submission 232*, p. 38.

68 Community Relations Commission for a Multicultural NSW, *Submission 232*, p. 41.

69 Community Relations Commission for a Multicultural NSW, *Submission 232*, p. 42.

8.106 NSW recommends that the Commonwealth enhance its programs for humanitarian entrants to gain suitable housing. In the meantime, the Commonwealth should provide on-arrival accommodation for longer than four weeks, especially for groups which are known to have difficulty finding suitable accommodation.⁷⁰

Educational issues

8.107 The NSW and WA Governments noted the special educational challenges faced by students from Africa and the Middle East. They often arrive with limited or no schooling, little or no literacy in their first language, and may have experienced torture and trauma.

8.108 The Commonwealth's 'ESL New Arrivals' program provides a grant of \$4,854 for one year of intensive English training. However, the State Governments have calculated that the real cost of providing intensive English tuition to refugees from Africa is actually between \$10,000 and \$12,000, two to three times the allocated amount per refugee. The cost of educating a person who is basically illiterate is high due to the intensive and extensive tuition required. Furthermore, with such students there is a need for schools to employ specialist bilingual support staff to assist teachers and school counsellors.⁷¹

8.109 There is a severe shortage of interpreter services for African, Arabic and other minority languages spoken in African countries, which impedes effective use of government services, including education and training. To overcome these problems the NSW submission recommended that the Commonwealth should:

- provide fee-free interpreting to all agencies providing services to Humanitarian Program entrants during their first two years of settlement, and generally increase funding to community settlement services to engage professional interpreters in delivering services; and
- develop strategies to recruit more professional interpreters for African languages into the Commonwealth Translating and Interpreting Service (TIS), including ways of encouraging more people to become NAATI-qualified.⁷²

Committee view

8.110 The Committee commends the government for the provision of the existing and wide-ranging programs to assist newly arrived entrants under the humanitarian program. However, the Committee does have some concerns that the Commonwealth appears to be slow in reacting to the new challenges presented by the changing demographic make-up of entrants under the Humanitarian Program. In the last two

70 Community Relations Commission for a Multicultural NSW, *Submission 232*, p. 35.

71 Government of Western Australia, *Submission 226*, p. 5; Community Relations Commission for a multicultural NSW, *Submission 232*, pp. 48 & 49.

72 Community Relations Commission for a Multicultural NSW, *Submission 232*, pp. 46 – 47.

years, refugees from Africa represented over 70 per cent of the intake under the Humanitarian Program, and all indications are that the trend will continue in the foreseeable future.

8.111 The States, particularly NSW, presented a strong case that DIMIA's settlement programs needed to be updated to adequately reflect the range of unique issues involving refugees from Africa.

8.112 While immigration is primarily a Commonwealth responsibility, the Committee recognises that a whole-of-society approach is required to make immigration a success. Achieving optimal results requires a good working partnership between the Commonwealth and State and local governments and community and charitable organisations.

8.113 The committee believes that most Australians fully support the Government's Humanitarian Program. They recognise the hardship and suffering experienced by refugees and the difficulties of settling into a new culture and environment. Australians want to see refugees settled quickly and as painlessly as possible, so that they can lead full and productive lives.

8.114 The committee is persuaded by the evidence it received that the settlement of refugees from Africa represent special challenges, which require new and innovative responses. DIMIA needs to adopt a flexible approach so that it can respond to the special needs of new refugee groups. DIMIA must work closely with all levels of government and with community and charitable groups to ensure that these people are settled in their new country as quickly and comfortably as possible. All reasonable costs of implementing resettlement programs should be covered by the Commonwealth.

Recommendation 55

8.115 The committee recommends that, in the light of increasing numbers of refugees from Africa, DIMIA should reassess its resettlement programs to ensure that services are relevant, and that sufficient budget appropriation is made to cover all the costs of implementing those programs.

