

Temporary Protection Visas:
The bastard child of the One Nation Party!

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The Contracting state shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened....

Article 31 of the Refugee Convention

At first we welcomed the TPV... but the TPV has turned out to be a big problem. We live under the constant threat of deportation; the rejection is what we live with every day. We cannot plan our futures.

Asraf Riyadh, 16 year-old student from Iraq ¹

Introduction

Refugees on Temporary Protection Visas (TPVs) are a group of people who live in uncertainty and disadvantage. In October 1999 the Howard Coalition Government introduced the TPV category in its refugee policy for asylum seekers who arrive unauthorized and are subsequently assessed by the Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) to be refugees. Since then, 8912 TPVs have been issued, with Iraqis and Afghanis comprising the largest groups of 4269 and 3661 respectively.²

Various reports³ have shown that the TPV has severely limited the capacity of refugees on TPVs to participate in everyday life – denying help to these refugees has prevented their recovery, as they become more and more isolated and impoverished. The sum of disadvantage suffered by TPV holders serves to isolate them and make their prospects poor in settling, moving forward, finding employment and establishing a positive outlook for the future. The psychological effects of this prolonged disadvantage,

¹ Cited in Ecumenical Migration Centre, *Refugee and Asylum Seeker Issues in Australia*, June 2003, p.67.

² Iranians comprise the next largest group with 475 and the remaining 507 in 'the other' category. Senate Legal and Constitutional Legislation Committee, Additional Budget Estimate, 17 February 2004, p. 29. Cited in Parliamentary Library, Department of Parliamentary Services, Research Note No. 51, 11 May 2004.

³ Barnes, D. *A Life Devoid of Meaning: Living on a Temporary Protection Visa In Western Sydney*, Centre for Refugee Research, UNSW, December 2002; Marston, G. *Temporary Protection Permanent Uncertainty: The experience of refugees living on temporary protection visas*, Centre for Applied Research RMIT University, 2003; Pickering, S et al, "We're working with people here" *The impact of the TPV regime on refugee settlement service provision in NSW*, Charles Sturt University and Monash University, 2003; Steel, Z. et al, *The Politics of Exclusion and Denial: The Mental Health Costs of Australia's Refugee Policy*, 38 Congress Royal Australian and New Zealand College of Psychiatrists, Hobart, May 2003.

especially given the very high levels of trauma and post-traumatic stress within the group are not difficult to imagine and will be examined.

This paper outlines the TPV policy and legislation from 1999 and looks at the damage inflicted on refugees by the TPV. It is also argued that the TPV regime has also been damaging to Australia, both in the form of contravening Article 31 (1) of the UN 1951 Refugee Convention and also damaging to the moral conscience of the Australian collective conscience.⁴

Background

In 1998 the One Nation Party released its immigration policy in which it stated that “genuine refugees will be maintained at the current level, but there must be no expectation of automatic permanent residence. If possible they will return to their own country when the unrest in their homeland has been resolved”.⁵ The following Federal election that year saw One Nation winning ten per cent of the vote. Coincidentally (?) some months later in October 1999 the Howard Coalition Government, very much aware of the electoral impact of the One Nation Party, introduced the TPV. Prior to this persons recognized as a refugee in Australia were granted permanent protection visas and therefore permanent residence and had a sense of security and, more importantly, a legitimised identity with all the advantages people who have it, take for granted.

While the concept of the TPV was not entirely new to Australia, the legislation of October 1999 contained new limitations such as restrictions to various welfare supports, (especially to the rights of family reunion) which are seen as punitive to refugees. Australia had granted TPVs to three groups of refugee previously; the Chinese students studying in Australia, who were granted TPVs after the Tiananmen Square massacre of

⁴ Since this paper was written the Government has changed the TPV policy making it easier for TPV holders to apply for a Humanitarian Visa. However, the details of the changes, while initially rejoiced, have not been provided and it appears that the changes will only help a minority of TPV holders; mainly those working in rural areas. The changes announced by the Government appear to be, once again, a cynical move by the Howard Government to appease public concern about the TPV policy before the next election.

⁵ Pauline Hanson's One-Nation Policy Documents. 1998.

1989 (and subsequently granted residency some years later),⁶ and the 'safe haven' visa in 1999 for the Kosovar and East Timorese refugees. The Australian Government introduced the 'safe haven' visa in response to pressure from the United Nations (UN) to offer humanitarian aid to refugees from the war in the former Yugoslavia. This program was extended in September 1999 to include 'off-shore' applications, which would allow the Timorese refugees to be evacuated from the UN compound in East Timor to Australia.

In both cases the 'safe haven' visas were Federal Government responses to external events 'off-shore' from Australia.⁷ On the positive side the 'safe haven' visa class, extended refugee protection to people who may not have any treaty based entitlement. On the negative side the refugees "received diminished access to Australia's protection in relation to the Refugee Convention and/or other human rights treaties as well as the removal of judicial review of their claims to asylum."⁸ However, while the Australian public generally welcomed the Kosovar refugees, the withdrawal of their temporary protection visas and their repatriation was politically and administratively mismanaged. Paradoxically, at the same time the Kosovars were being welcomed the increasing arrival of asylum seekers by boat generated an opposite reaction by both the government and the public.⁹

The temporary protection visa regime introduced in 1999 is quite distinct because it was introduced in the guise as a direct deterrent to 'on-shore' arrivals and as part of the policies that would become known as border protection. This regime was specifically targeted at asylum seekers who sought Australia's protection in an 'unauthorised' manner – namely asylum seekers mostly fleeing from Afghanistan, Iraq and Iran and arriving by boat. This created a second-class refugee status whereby those on TPV, determined as refugees were told they would have to return to their homeland when

⁶ McMaster, D. *Asylum Seekers: Australia's Response to Refugees*, Melbourne University Press, Melbourne, 2002, p. 78.

⁷ Marston, *op cit*, p.15 and Pickering, *op cit*, p.1.

⁸ Pickering, *ibid*.

⁹ Crock, M. and Saul, B. *Future Seekers: Refugees and the Law in Australia*, Federation Press, Sydney, 2002, p. 1; McMaster, *op cit*, p.2 and pp.190-191.

conditions were safe, while other refugees who had entered as 'authorised' refugees could apply for permanent residency. There is an area of discrimination at play here, discrimination by the means of arrival, creating a two-class system for refugees.¹⁰

The Immigration Minister at the time, Phillip Ruddock declared:

What we are saying is there was a right way to come and a wrong way to come and the temporary visa is about saying yes, we honour our obligations but if things change at home, and you can go back, then you'll be going back.¹¹

The visa system creates two classes of refugees in Australia: those who arrive here in an 'authorised' manner having had their refugee determination process 'off-shore' and granted a permanent protection visa and; those who arrive in an 'unauthorised' manner, mainly by boat as asylum seekers who are detained while their refugee determination is processed. This last group is granted temporary protection visas, a second-class refugee status.

The Australian Government has argued that when refugee status is withdrawn (in this case a TPV) and they are returned to their country of origin, this somehow 'frees up space' for other, new and more needy refugees. There is no direct way in which this is true, as extra refugee quota spaces are not added as a consequence of each departure.

I concur with Crock and Saul who argue that the Australian Government's justification for the temporary protection visa is fundamentally flawed, morally questionable and most probably illegal. It could be argued as illegal in that Article 31(1) of the United Nations Refugee Convention specifies that refugees should not be discriminated against by reason of illegal entry to a country of asylum – the temporary protection visa appears to discriminate against a group of asylum seekers who arrive by boat. In general rhetorical terms the introduction of the TPV highlighted the construction of 'genuine

¹⁰ Refer to Einfield, M. "Is there a role for compassion in refugee policy", in *UNSW Law Journal*, Vol. 23 (3) pp.303-314 for a similar argument.

¹¹ Ruddock, P. "Asylum seeker suicides while on temporary protection visa", *7.30 Report transcript*, (available online at <http://www.abc.net.au/7.30/content/2003/s865888.htm>)

refugees' (those granted permanent protection) versus the "non-genuine refugees' (those only granted temporary protection) a line taken by the Howard Coalition Government and one that positions the refugee on temporary protection as second class and, in the eyes of the public, not a real refugee and this further demonises them.

The temporary protection regime has limited social entitlements and constitutes a form of punishment for those asylum seekers who did not apply offshore through formal immigration channels.¹² It is discriminatory in that refugees on temporary protection are not given the same benefits or rights as those refugees on permanent protection. Essentially, TPV holders are only entitled to a sufficient level of support to 'carry them over' for the temporary period the federal government perceives they will stay in Australia, "the notion of settlement apparently not being considered relevant".¹³

TPVs allow asylum seekers who have been recognised as refugees under the UN Conventions to stay in Australia for 36 months. After 30 months of living in this psychologically damaging state, the onus is on the TPV holder to prove that it would not be safe for them to return to their homeland. The social entitlements accorded to the TPV refugees are restricted and they:

- have no family reunion rights, even for spouses and children;
- have no right to re-enter Australia, as the TPV is void if they leave;
- have access to the Centrelink Special Benefit for which eligibility criteria apply and a work test is imposed;
- are ineligible for Newstart, Sickness Allowance, Parenting Payment, Youth Allowance and Austudy;
- have access to primary and secondary education subject to State Government policy;
- are effectively excluded from university study as they are subject to full international student fees;
- have no right to DIMIA funded settlement support services (except health screening and referral);
- have permission to work but find securing sustainable employment very difficult because of language barriers and the temporary nature of their protection visa which discourages employers;
- have very limited access to job placement support and services;

¹² Crock, M. and Saul, B. *Future Seekers: Refugees and the Law in Australia*, Federation Press, Sydney, 2002, p.106.

¹³ Barnes, D. *op cit*, p.11.

- Have no access to federally funded English language classes or interpreting and translating services;
- are eligible for Medicare and Health Care cards;
- have no access to on-arrival accommodation assistance and limited access to state-provided public housing assistance.¹⁴

The above points highlight the access and equity barriers created by the TPV. For a successful and positive settlement experience many of the above points would need to be addressed to: develop language skills, secure employment, access educational opportunities, provide family reunion and to secure affordable and appropriate housing. These are needed to create the sense of belonging that is crucial to successful settlement. Many of these resources are denied to TPV holders because the Australian Government does not believe this group of refugees should be treated the same way as the authorized 'genuine' refugees.

Human rights and the TPV

Australia is the only country to apply temporary protection status to refugees who have been through "a full asylum system and who have been recognized as genuinely in need of protection for 1951 Refugee Convention reasons".¹⁵ Generally, temporary protection is granted to asylum seekers as a group when they are fleeing an emergency (as in the case of the Kosovars) that is causing forced displacement or when the receiving states are threatened by the number of arriving asylum seekers. This is consistent with various United Nations High Commissioner for Refugees (UNHCR) Executive Committee (ExCom) Conclusions, which are intended to guide states in their treatment of refugees and asylum seekers and in their interpretation of existing international law. States such as Australia who are members of ExCom have negotiated and agreed to their provisions are under obligation to abide by the Conclusions.¹⁶

¹⁴ Australian Education Union, *Asylum seekers and refugees project report*, paper from the AEU 2004 Federal Conference, pp. 6-7.

¹⁵ Human Rights Watch, *Human Rights Watch Commentary on Australia's Temporary Protection Visa for Refugees*, <http://www.hrw.org/background/refugees/australia051303.htm>

¹⁶ *ibid.*

In all other circumstances refugees are entitled to full and permanent protection after they have gone through the refugee determination process. While the 1951 Convention Relating to the Status of Refugees (Refugee Convention) does not explicitly state that refugee status is permanent it is stipulated that refugees must not be sent back to a life or freedom threatening situation for any of the Convention related reasons (race, nationality, religion, membership of a particular social group or political opinion). Western states have taken the approach that refugees determined to have a legitimate claim and having spent some time in the new country, are not expected to return to their country of origin when conditions change, thus they are seen as 'permanent' citizens.

The decision to grant a permanent protection visa is based in humanitarian, legal as well as practical considerations such as:

- Article 1C of the Refugee Convention expressly recognizes that the prior experiences of persecution might justify refusal to be returned, even if the conditions that caused the refugee to flee do not exist;
- Granting permanent status to a refugee provides the conditions for the refugee to regain control and resolve the trauma of the past;
- Forcing a refugee to return to a country of origin after they have been in a new country for a length of time will cause unnecessary harm and trauma for the refugee as well as the community members.¹⁷

The signatory countries of the Refugee Convention (which includes Australia) are obliged to adhere to a series of vital civil and socio-economic human rights which include freedom of association, movement and religion, right of access to key social institutions, including education, employment and social assistance. Many of these vital rights are wholly or partially denied to TPV holders in Australia.

While the Refugee Convention does not specifically nominate whether protection granted to refugees should be temporary or permanent there are Articles in the Convention, which provide guidelines for protection.

¹⁷ Refugee Council of Australia, *Position Paper on TPVs*, September 2003, p. 2.

Article 31 states:

The Contracting State shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of Article 1, enter or are present in their territory without authorization, providing that they present themselves without delay to the authorities and show good cause for their illegal entry or presence.¹⁸

The Convention is explicit in this Article that a state should not impose penalties or punish refugees based on their mode of entry.

Article 34 states:

The Contracting State shall, as far as possible, facilitate the assimilation and naturalization of refugees. They shall in particular make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.¹⁹

Permanent protection is not stipulated in this Article but it is made clear that the effective settlement of refugees is highly desirable in the receiving country. Other rights afforded to refugees are:

- Article 32: freedom from expulsion whereby lawfully in the territory have the right not to be expelled, except for reasons of national security or public order;
- Article 26: freedom of movement;
- Article 15: freedom of association;
- Article 17: access to wage earning employment – refugees lawfully in the country have the same rights as afforded to most favoured foreigners, with no restrictions after three years or if a spouse or child is a citizen;
- Article 23 and 24: access to public relief and social security – for refugees lawfully staying in the territory, the same rights are afforded as to nationals. This is intended

¹⁸ Cited in Pickering, *op cit*, p.4.

¹⁹ *ibid*, p. 3.

to guarantee access to critical programs such as health care, social assistance, unemployment assistance, old age security and disability allowances.²⁰

The Refugee Convention does not specifically guarantee the right to family reunification, it was included in the Final Act of the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons (1951) at Article iv.B[4] and the guidelines for its application are contained in ExCom Conclusion 24.²¹ In excluding access to family reunification for the TPV holder the Government is denying basic rights to refugees and further trauma in isolating them from avenues to see their family members or live together as a family. The Howard Coalition Government has strong 'family values' as one of its major platform and the denying of family reunification and reassuming normal family structures and life for this group of refugees appears highly ironic, apart from the inhumane and uncompassionate nature of the policy.

As the Refugee Council of Australia points out, " that general international human rights law applies equally to refugees as to all other people".²² Article 2 (1) of the International Covenant on Civil and Political Rights (ICCPR) extends full rights for protection to all persons under a State's authority, not just to nationals. Historically, the issue of temporary protection is most often associated with situations of mass influx of refugees. The UNHCR has emphasized that while refugee protection does not presuppose permanent exile, refugees must be provided stability in the host or new state and that those provided with only temporary protection must be afforded the same treatment as formally recognized refugees.²³ The Australian Government is contravening the UNHCR's guidelines for temporary protection in the different and discriminatory treatment of refugees on TPVs as compared to those with permanent protection visas.

²⁰ Refugee Council of Australia, *op cit*, p.2.

²¹ *ibid.*

²² *ibid.*

²³ UNHCR, *The Scope of International Protection in Mass Influx*, EC/1995/SCP/CRP.3 at 4.

The introduction of temporary protection in Australia and the talk of shifts to this model in the United Kingdom and Europe is part of the shift from permanent models of refugee settlement.²⁴ From a humanitarian perspective this has alarming repercussions, and as the Australian experience has shown dire results for most of those on TPVs. As mentioned before, no other countries have gone as far as Australia in their temporary protection regime. The European Union has a one-year temporary protection with automatic extensions every six months but temporary protection only applies to those refugees who arrive as part of a mass influx. The European Council on Refugees and Exiles (ECRE), the peak non-government organisation in Europe, has noted that the policy stresses the exceptional nature of temporary protection and that the policy provides a reasonable standard of rights including access to emergency health care and essential treatment.

In the United States of America, temporary protection is used for nationals who are unable to return home due to ongoing-armed conflict, an environmental disaster or some other temporary or extraordinary situation. These asylum seekers are provided with the right to work and a limited right to travel outside the USA. The Temporary Protected Status afforded these asylum seekers allows them to apply for refugee status and those rejected from refugee status may be able to adjust their status to permanent residence under other provisions of USA law.

Both the European Union and the USA use temporary protection for persons fleeing catastrophic events where there is the expectation that they will return to their home once the conflict has subsided. This is markedly different to the way they grant visas to people who have been determined to be Convention refugees or who have been granted a visa on humanitarian grounds. And this is where Australia's TPV regime is strikingly different; refugees on TPVs have been determined as Convention refugees. The majority of the countries in the European Union and the USA would have provided this group of refugees permanency. The countries of the EU that receive the highest number

²⁴ Pickering, *op cit*, p.4.

of refugees – the UK and Germany - both grant permanent residence to Convention refugees, as does Austria, Belgium, Spain and Sweden. Both the USA and Canada provide permanent residence to Convention refugees. It appears that Australia is discriminating against a particular group of refugees for the manner in which they arrived.

More importantly, for the argument in this paper, it is noted that in those countries which grant temporary visas to Convention refugees: there is full access to the range of entitlements as residents, including family reunification and travel rights; the refugees are not required to undergo refugee determination status to have their visas renewed; renewal of the visa is viewed as an administrative formality; visas are not renewed only if the Cessation Clause (Article 1C of the Refugee Convention) is invoked, the refugee has renewed contact with the country of origin, or if the person has committed an offence (both occur infrequently and are appealable).²⁵

The differences between these rights and Australia's restrictions are palpable; Australia does not afford those refugees on TPVs any of the above rights and entitlements. While Australia is not in breach of the Refugee Convention when it grants temporary status to Convention refugees the current TPV policy is flawed in the following way:

- the TPV regime is in breach of Australia's obligation to refugees in that it denies access to certain entitlements (as listed above);
- the TPV regime result in significant trauma and psychological harm to refugees who hold the TPV;
- the requirement that TPV refugees undergo periodic determination of their status as refugees is contrary to international practice and the spirit of the Convention and;
- with relevance to the wider Australian community, the creation of a social underclass has the potential to impact negatively on the wider community
- the TPV regime is used by the Australian government as a deterrent and a form of punishment for all unauthorized arrivals;
- the TPV is a discriminatory practice that creates two classes of refugees resulting in an inequitable distribution of resources for people with the same needs;

²⁵ Refugee Council of Australia, *op cit*, p.6.

- attaining and exercising social citizenship are contingent on how refugees are treated by the host society.²⁶

Marc Purcell, from the Catholic Commission for Justice, Development and Peace, summed it up succinctly in his speech at an RMIT Forum in 2003, when he stated that “Australia gets the hat trick in gold medal Olympics for violations of the Convention because the TPV is unique to Australia” and it is the permanent nature of this TPV and the requirement for refugees to undergo the refugee determination process again that makes it unique to Australia.²⁷ Australia is the only country to require refugees who have already been recognized as refugees to *re-prove* their claim.

Implications for refugees on the TPV in Australia

It is ironic that the largest groups of people on TPVs are the Afghanis and the Iraqis, both groups having fled their country to escape persecution, human rights violations and war. It is ironic because human rights was used by leaders such as President Bush, Prime Ministers Howard and Blair as justification for war in both these countries. However, the human rights violations inflicted upon the refugees from these countries seems lost for the Howard Government, which deems that these refugees can return when it is safe, even after prolonged periods of three years. This has major and far-reaching consequences for both the TPV holders and the Australian community.

As it has been outlined in this paper the TPV regime is antithetical to successful settlement as it denies refugees access to the services considered essential for settlement. This denial of access to the full range of settlement services and the fear of being returned to a dangerous situation in their homeland enforces the feelings of insecurity and not belonging. TPV holders, who have faced persecution and trauma in their country of origin, are faced with further trauma upon their arrival, as asylum seekers, in Australia when they are placed in detention centres. The majority of asylum seekers are

²⁶ Refugee Council of Australia, *ibid*, p. 9; Marston, *op cit*, p.21; for a similar argument about social citizenship see McMaster, *op cit*, ch.7 and “Asylum seekers and the politics of citizenship”, *Borderlands e-journal*, vol. 2, no.1., 2003.

²⁷ Marc Purcell in Whyte, J. “Refugees and War”, paper from RMIT Forum, 29 April 2003.

highly traumatised by this experience²⁸ and many leave the detention regime with high hopes and expectations of freedom and equality. However, these hopes soon dissipate when the reality of restrictions and conditions of the TPV become evident.

This disillusionment is highlighted by a twenty two year old TPV holder, who despairs:

I wanted to enroll in school, but they wouldn't let me because I'm over 18. So I went to TAFE and they said I can study but I must pay money. But the fees are too much for me. Every time I try to do something, I get rejected, I just hope, when these three years [on the TPV] have passed, maybe they will let us live normally. We had not expected anything like this when we first came to Australia. We thought we would be able to just live like normal people, and after three years we would be like Australians...I went to a video shop, and asked if I could rent some videos, and the man said he wanted to see my license, to check my name and address. I said I don't have a license but I have this visa and my health care card. He saw the visa and said "No, its just temporary [so you can't have the videos]". I said "I want this video for one week - not for three years!" And then he said it was OK....It makes us feel like we are strange people, like something is wrong with us. We feel very unwelcome here.... My mother says maybe they think we are criminals or something.²⁹

A poignant quote that clearly explains the position of TPV holders in the Australian community - as outsiders, excluded from particular aspects of mainstream society. Refugees on TPV are afforded some settlement services such as: access to Medicare; Special Benefit; primary and secondary schooling subject to state policy; rent assistance; and TPV minors are eligible for English as a Second Language New Arrivals Program in schools, and permission to work. However, they do not have access to: family reunion (including spouse and children); they are ineligible for Newstart, Youth Allowance, Sickness Allowance, Parenting Payment, Austudy; they are effectively precluded from tertiary education due to imposition of full fees; and their ability to find employment is influenced by the temporary nature of their visa and their poor English skills.

²⁸ Refer to Mann, T. *Desert Sorrow*, Wakefield Press, Adelaide, 2004.

²⁹ Quoted in Barnes, D. *op cit*, pp. 28-29.

The impact on TPV refugees of withholding settlement services and supports is well documented in various studies.³⁰ The studies show the negative impact of the TPV on the physical and psychological health, employment prospects and general well being of refugees. Specific points from these studies are:

- Isolating people who have experienced torture and trauma through the denial of adequate settlement assistance further undermines their sense of safety, security and certainty. Evidence suggests that TPV holders are in a state of limbo which is a source of frustration and deep anxiety;
- The current level of health care provided to TPV holders is likely to result in long term health problems and economic cost to the health system;
- Denial of English language tuition was a major barrier to their participation in society and was likely to cause long-term welfare dependency;
- TPV holders experience considerable difficulty in locating suitable accommodation;
- Employer reluctance to employ TPV holders reflects negative community perceptions about them. There is a mistaken perception among many employers that TPV holders do not have the right to work;
- TPV holders arriving unaccompanied by other family members experience unique psychological illness due to their age, service provision arrangements and separation from family
- Caring for TPV holders without Federal Government support has created enormous strain for community service providers and shifted costs to State and community-based organizations.³¹

Countering the psychological damage done by the TPV regime is the more difficult to compensate than the topping up of services. The RMIT report uncovered the:

clear and unequivocal connection between the visa status of refugees on TPVs and their self-reported feelings of distress, despair and depression. The deep uncertainty associated with the TPV severely restricts the capacity of refugee participants to recover from a traumatic past, as well as to dream for a better future.³²

Research by the Centre for Population and Mental Health Research at the University of New South Wales supports health professionals' concerns about the adverse impact of

³⁰ Barnes, D. *A Life Devoid of Meaning: Living on a Temporary Protection Visa In Western Sydney*, Centre for Refugee Research, UNSW, December 2002; Marston, G. *Temporary Protection Permanent Uncertainty: The experience of refugees living on temporary protection visas*, Centre for Applied Research RMIT University, 2003; Pickering, S et al, "We're working with people here" *The impact of the TPV regime on refugee settlement service provision in NSW*, Charles Sturt University and Monash University, 2003; Steel, Z. et al, *The Politics of Exclusion and Denial: The Mental Health Costs of Australia's Refugee Policy*, 38 Congress Royal Australian and New Zealand College of Psychiatrists, Hobart, May 2003.

³¹ HREOC, TPVs: Operation and Impacts, www.hreoc.gov.au/racial_discrimination/Erace/tpv

³² Marston, G. *op cit*, p.4.

TPVs on refugees. The study showed that refugees on TPV are highly traumatized, at risk to ongoing mental illness and have a 700 per cent increase in risk for developing depression and post-traumatic stress disorder compared to refugees with permanent protection visas.³³ One of the most damning findings of the study is captured in the statement by one of the studies authors, Clinical Psychologist Zachary Steel: “Our findings illustrate that it is just not possible for refugees to rebuild their lives on TPVs and the cost will ultimately be paid by the broader community as we are forced to repair the damage caused to these peoples lives”.³⁴

The factors that contribute to the anguish felt by refugees on TPV include:

1. *Insecurity about the future:* refugees have severed ties with their county of origin due to dangers they face if they return. Many experienced persecution and substantial trauma in their country before they fled. Their ability to heal both physically and psychologically is dependent on their sense of security in their new environment. The temporary nature of the visa and the requirement that they must undergo further refugee determination has had many detrimental effects and has resulted in:

- high levels of stress and anxiety (as detailed in the UNSW study);
- self harm and suicidal ideation;
- the inability to make decisions about the future;
- high levels of mobility.

2. *Lack of family reunion:* the denial of the prospect of being able to see their spouse or children without forfeiting the protection they have been given in Australia takes a heavy toll. A high proportion of TPV holders are men whose wives and children are either in their country of origin or in countries of first asylum. These families are vulnerable without the head of the household, both physically and economically and the TPV holders are:

- consumed with guilt because they can not reunite their family;
- preoccupied with worrying about their family;
- economically constrained by sending money overseas to support their family;

³³ Steel, Z. et al, *op cit*, pp.18-19 and UNSW Media Release 30 January 2004, “Temporary protection visas compromise refugees health: new research.”

³⁴ UNSW Media Release 30 January 2004, “Temporary protection visas compromise refugees health: new research.”

- lonely – yet unable to enter into a new relationship without feeling guilt;
- despondent about the separation from their children.

Without family reunion refugees will never be able to make a firm connection to Australia, they will remain outsiders, separated from their family and the emotional isolation that brings.

The impacts of refugees living on TPV are no more evident than in the Afghani Hazaras TPV groups residing in Young in New South Wales and Murray Bridge in South Australia. Both groups consist of Afghani men, some single and some with spouses and children back in Afghanistan. The Afghani TPV holders have connected with the local community and both groups have provided an excellent workforce for the local meat works industry, working at the abattoirs. Many other Afghanis, mostly Hazaras who have been discriminated against as a group in Afghanistan, have settled in the Riverland, Swan Hill in Victoria, Launceston in Tasmania, Albany in Western Australia and Kilcoy in Queensland. In Young, twenty five Afghani TPV holders work for the Burrangong Meat Processors, the towns biggest employer which turns over \$60 million each year, and the success of the meat works has relied on the Afghans.³⁵ These TPV holders have made a valuable contribution to this community yet they are denied full citizen rights because of their visa.

Murray Bridge in South Australia also has a group of Afghani Hazara TPV holders working at the local meat works. They also have connected with the local community who has urged the government to let them stay.³⁶ Nicholas Proctor, in an initiative with the SA Department of Human Services to develop a mental health promotion and suicide prevention strategy, has documented the psychological problems of this group. It has been found that most of the Afghani TPV holders at Murray Bridge take medication to help them sleep and anti-depressants to help them cope and to prevent

³⁵ Phillips, M. "Why we should let these refugees stay", *The Advertiser*, January 3 2004, p.28. The ABC TV has had numerous documentaries about this particular group and a TV mini-series was based on the lives of the Afghanis in Young.

³⁶ *Ibid.*

them suiciding.³⁷ This is a shocking indictment of a government policy that is causing harm and despair to a group of people who have faced persecution and trauma in their home country.

Conclusion

The Australian Government argues that its TPV policy is a deterrence to prospective asylum seekers. While the number of asylum seekers arriving by boat has diminished over the past few years, this can be accounted to other measures such as the cooperation with the Indonesian authorities to curb people smuggling rather than the TPV regime being a deterrence. The reality is that desperate people fleeing persecution will not perceive the TPV as a deterrent; in most cases they would not know that it exists.

The TPV regime has inflicted undue hardship and despair on a group of people; Convention refugees, who have already experienced trauma and extreme hardship. It has been shown in this paper that Australia's TPV regime is creating problems of social exclusion and constructing a marginalised and disadvantaged group within the larger Australian community. As a consequence of this marginalisation, community groups and non-government agencies are struggling to fill the gap in support services. TPV holders are, in the main, widely accepted into the local communities they have chosen to live in. The wrench of their departure if they were to be returned to their country of origin would not only have traumatic consequences for the TPV refugees but also for their local community. The example of the Afghani TPV holders in Young and Murray Bridge confirms this; the departure of the TPV holders from Australia would result in a lack of valuable labour force as well as excellent and committed citizens, while the continued use of temporary visas perpetuates the uncertainty, insecurity and psychological health problems of this group. These problems will be at a cost to the local and wider Australian communities. Can Australia afford these losses and health care costs? Australia can not continue to breach its international treaty obligations

³⁷ Procter, N. "Mohammad Walking Blindfolded on the Moon", *AustralianMosaic*, Issue 3 Winter 03, pp. 40-42, and forthcoming in his book *Speaking of Sadness and the Heart of Acceptance: Cultural Healing Uncovered*, to be published by Multicultural Mental Health Australia.

without repercussions from the International community, for as long as Australia continues with the granting of TPVs to Convention refugees, the Government will be perpetuating suffering, preventing social cohesion and wasting precious human and fiscal resources.³⁸

³⁸ Refugee Council of Australia, *ibid*, p. 14.

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