



CRA Submission to the Senate Standing Committee on Legal and Constitutional Affairs References inquiry into the efficacy, fairness, timeliness and costs of the processing and granting of visa classes which provide for or allow for family and partner reunions

30 APRIL 2021

Catholic Religious Australia (CRA) welcomes the opportunity to make a submission to the Senate Standing Committee on Legal and Constitutional Affairs References' inquiry into the efficacy, fairness, timeliness and costs of the processing and granting of visa classes which provide for or allow for family and partner reunions.

CRA is the peak body representing the Leaders of 150 Catholic Religious Institutes and Societies of Apostolic Life which operate in Australia. Our religious institutes comprise more than 5,000 Catholic religious women and men and their lay colleagues, who work in education, health care and family and social services. Australia's religious congregations are strongly committed to action for justice. Through their justice ministries, they work with and advocate for Australia's most vulnerable communities.

We understand the family to be the most fundamental unit of society, and within it, each human being, who is intrinsically relational, can grow and flourish with joy, through the support and nurture of their familial community. Ideally, the family creates an environment where children are loved and can develop to their full potential. Parents are a child's first teachers. Partners are a mutual gift of love and support to one another. Grandparents are a treasured source of wisdom and transmitters of culture for younger generations. In many cultures, aunts, uncles, cousins, and extended family also have valued and important roles to play. As well as benefits for the individual members of the family, the family unit contributes to the betterment and authentically human growth of society, when it is able to fully participate within that society.

Thus, it is only right that Australia's permanent migration programme includes Family and Partner Visa options that enable the reunion of Australians with members of their family. At present, options for obtaining a visa for family reunion exist through the Family Stream of the Migration Program, or through the Refugee and Humanitarian Program.

Primary Purpose

CRA is concerned that the primary goal of granting visas that allow for family reunion is economic growth, and that this is not balanced with an obligation to also support the wellbeing of Australians. This was made clear when the now Prime Minister and former Immigration Minister, Scott Morrison, stated in his 2013 address to the Migration Institute of Australia National Conference: "The primary purpose of our immigration program is economic, not social, in our view. Immigration is an economic policy, not a welfare policy."¹ And yet, both the Universal Declaration of Human Rights (Article 16, 3) and the International Covenant on Civil and Political Rights (Article 23, 1), the latter of which Australia has signed and ratified, declare that, "The family is the natural and fundamental group unit of society and is entitled to protection by society and the State."²

¹ Scott Morrison, "Address to the Migration Institute of Australia National Conference, Canberra," Parliament of Australia, accessed 13 April 2021, URL: <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressrel%2F2797138%22;src1=sm1>

² United Nations, *Universal Declaration of Human Rights*, accessed 27 April 2021, <https://www.un.org/sites/un2.un.org/files/udhr.pdf>; United Nations, *International Covenant on Civil and Political Rights*, accessed 27 April 2021, <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

The result of the economic imperative which openly motivates the Government's stance on the granting of visas is that the obtainment of a visa for family reunion in a timely manner must come at an exorbitant cost to the applicant and their family. This implies that Australia only values migrants based on their wealth or their potential to economically contribute to our society, denying their basic human dignity beyond this. Ultimately, this will have a harmful impact on families, preventing many from reuniting.

Family Reunion through the Migration Program

Whilst it is commendable that there will be an increase from 47,732 to 77,300 Family Stream places in the 2020-21 year of Australia's Migration Program,³ CRA is concerned that the primary focus of this Migration Program is on obtaining skilled workers, rather than reunifying families, with specific concerns around the challenges to obtaining a Parent Visa.

Prioritisation of Youth

Only 4,500 places are allocated to the Parent Visas for 2020-21,⁴ making up only 5.8% of Australia's total family intake. Partner Visas have a much greater allocation, indicating that even within the Family Stream, immigrants of a working age are prioritised. This devaluation of the contribution of older individuals to Australian society is also evident through the Working and Skilled Visa Stream, with most of its Permanent Skilled Visas having an age limit of 45. This limits the pathway for any parents older than this to seek permanent entry to Australia to the Parent or Aged Parent Visas only, even though a holder of a Parent Visa, who will be under the age of 65, is possibly still going to engage in the workforce.

This prioritises youth above anyone over the age of 45, devaluing both their economic and social contribution to the family and society at large. Even retired grandparents, through assisting with care of grandchildren, allow parents to work more often and reduce childcare costs for Australian families. Without familial support in rearing children, many Australian families may require government subsidies to afford the rising costs associated with childcare.⁵

Eligibility Criteria

To be eligible for any of the 4 Permanent Parent Visas or 2 of the Temporary Parent Visas (subclass 884 and 173), a person must pass the 'Balance of Family Test,' which states that you must have more children or stepchildren living in Australia than in any other single country. This test ignores specific

³ Department of Home Affairs, "Migration program planning levels," Australian Government, accessed 28 April 2021, <https://immi.homeaffairs.gov.au/what-we-do/migration-program-planning-levels>

⁴ Department of Home Affairs, "Migration program planning levels," Australian Government, accessed April 15 2021, <https://immi.homeaffairs.gov.au/what-we-do/migration-program-planning-levels>

⁵ Department of Education, Skills and Employment, "Child Care in Australia report March quarter 2020," Australian Government, accessed 26 April 2021, <https://www.dese.gov.au/key-official-documents-about-early-childhood/early-childhood-and-child-care-reports/child-care-australia/child-care-australia-report-march-quarter-2020>

circumstances, and CRA believes that the eligibility test should instead be based on need, assessed on a case-by-case basis.

Furthermore, the eligibility criteria that an applicant meet the specified health requirements ignores the dignity of the individual and wellbeing of the family, by ruling ineligible unwell people who may require the care and support of their family in Australia. In addition, by barring those with an intellectual or functional impairment from permanent migration to Australia, Australia violates Article 18 of the United Nations Convention on the Rights of Persons with Disabilities, which it has signed and ratified, which states that: “States Parties shall recognize the rights of persons with disabilities to liberty of movement, to freedom to choose their residence and to a nationality, on an equal basis with others.”⁶

Processing Times and Costs

Contributory Parent and Aged Parent Visas (subclass 143 and 864) have a processing time of approximately 58 months,⁷ but require a hefty fee that can cost from \$47,755 per applicant,⁸ which is unaffordable for many. The Non-contributory Parent and Aged Parent Visas (subclass 103 and 804) has become the only financially obtainable option for many, with lesser costs starting from \$6,415. However, by pushing many parent applicants down this path, the great demand has meant that processing times have skyrocketed to approximately 30 years,⁹ meaning that many elderly applicants could pass away before even having their application processed.

The Result of Barriers

Barriers to family reunion in Australia may ultimately mean that prospective skilled migrants simply go elsewhere, knowing that they have little chance to also bring their parents to Australia. Those who have already migrated to Australia and who cannot afford the high visa fees for their parents, may decide to spend time offshore in order to look after their elderly parents, resulting in an outflow of skilled labour from Australia.

Family Reunion through the Refugee and Humanitarian Program

When refugees flee persecution or conflict in their country of origin, family members are frequently left behind or separated during this chaotic process, with the result being that only part of a family might be resettled in Australia. Although it is commendable that Australia grants physical safety to refugees, prolonged family separation may have very negative emotional and mental impacts on an

⁶ United Nations, *Convention on the Rights of Persons with Disabilities*, accessed 27 April 2021, <https://www.un.org/development/desa/disabilities/convention-on-the-rights-of-persons-with-disabilities.html>

⁷ Department of Home Affairs, “Visa Processing Times,” Australian Government, accessed 20 April 2021, <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-processing-times/family-visa-processing-priorities/parent-visas-queue-release-dates>

⁸ Department of Home Affairs, “Contributory Parent Visa,” Australian Government, accessed 20 April 2021, <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/contributory-parent-143>; The Department of Home Affairs, “Contributory Aged Parent Visa,” Australian Government, accessed 20 April 2021, <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-listing/contributory-aged-parent-864>

⁹ Department of Home Affairs, “Visa Processing Times.”

individual who may fear for the safety of those left behind, and/or require familial support after living through traumatic experiences.

Under the Refugee and Humanitarian Program, family reunion visas can be obtained through the Split Family Provisions that allow Refugee or Humanitarian Visa holders to propose and sponsor immediate family members to also be resettled in Australia. The visas granted to these family members are generally of the same visa class as their sponsor, but the main avenue for family reunion is through the Special Humanitarian Program (SHP) Visa (subclass 202). Despite the Split Family Provisions, many barriers exist for family reunions.

Visa Quota and Processing Times

The SHP Visa is the main pathway for family reunion for those settled in Australia on a Refugee or Humanitarian Visa, but CRA is concerned by the small number of places allocated to this Visa, which was only 5099 places in 2019 – 20,¹⁰ making up only 3.6% of Australia's total permanent migrant intake for that year.¹¹ This is only a minor decrease from the 2018 – 19 year, where SHP Visas made up only 4.7% of Australia's total permanent migrant intake,¹² indicating that the COVID-19 Pandemic has not had great influence on this low figure. The Refugee Council of Australia estimate that demand for the SHP Visa exceeds availability at a rate of seven to one, resulting in refugees waiting many years for family reunion.¹³ The allocation of overall visas for the Refugee and Humanitarian Program going forward is being decreased from the 18,750 achieved in 2018-19, to just 13,750 places per year, which will only further decrease the rate of family reunions.

To expediate processing time, a family may also be reunited under the Community Sponsorship Program (CSP) within the SHP, whereby individuals or communities can sponsor a person for resettlement through a small list of Approved Proposing Organisations. However, in the 2019 – 20 year, only 417 visas of the 1000 allocated places for the CSP were granted.¹⁴ In the previous year, only 563 visas of the 1086 received applications were granted.¹⁵ Also, these allocated CSP places were taken from the overall quota for the Refugee and Humanitarian Program, rather than constituting additional places.¹⁶

¹⁰ Department of Home Affairs, "Australia's Offshore Humanitarian Program: 2019–20," Australian Government, accessed 28 April 2021, <https://www.homeaffairs.gov.au/research-and-stats/files/australia-offshore-humanitarian-program-2019-20.pdf>

¹¹ Department of Home Affairs, "2019 – 20 Migration Program Report," Australian Government, accessed 28 April 2021, <https://www.homeaffairs.gov.au/research-and-stats/files/report-migration-program-2019-20.pdf>

¹² Department of Home Affairs, "Australia's offshore Humanitarian Program: 2018–19," Australian Government, accessed 28 April 2021, <https://www.homeaffairs.gov.au/research-and-stats/files/australia-offshore-humanitarian-program-2018-19.pdf>; Department of Home Affairs, "2019 – 20 Migration Program Report."

¹³ Refugee Council of Australia, "Addressing the Pain of Separation for Refugee Families," accessed 23 April 2021, <https://www.refugeecouncil.org.au/wp-content/uploads/2018/12/Addressing-the-pain-of-separation-for-refugee-families.pdf>

¹⁴ Department of Home Affairs, "Australia's Offshore Humanitarian Program: 2019–20."

¹⁵ Department of Home Affairs, "Australia's offshore Humanitarian Program: 2018–19."

¹⁶ Refugee Council of Australia, "How do refugees come to Australia under its Refugee and Humanitarian Program?" accessed 27 April 2021, <https://www.refugeecouncil.org.au/coming-to-australia/>

Furthermore, the Refugee Council of Australia argue that by placing family reunion visas for refugees within the Refugee and Humanitarian Program, these places may actually be taking away from more vulnerable people who are in greater need of resettlement. We therefore support their recommendation to establish a separate humanitarian family reunion stream that does not take away from the overall quota for refugees.¹⁷

Visa Costs

The costs involved in obtaining a visa for family members may be unaffordable for many refugees resettled in Australia, especially if only newly arrived. The Refugee Council of Australia explain that obtaining a visa through the CSP can come in at a similar price to the Family and Partner Visas of the Migration Program, ignoring the economic hardship a family with a refugee background faces. The initial Visa Application Charge through the CSP is \$2,680, and the second charge is \$16,444 for the primary applicant and \$2,680 for each dependent (payable only if the applicant is successful). In addition, a sponsor may need to pay an assurance of support bond and Bank Guarantee, costs of airfares, medical screening, on-arrival support and any administrative fees for the Approved Proposing Organisation.¹⁸

Whilst significantly cheaper than a CSP Visa and without an application charge, the Refugee Council of Australia estimate that the cost for an SHP Visa, which must be borne by a sponsor, can still come up to tens of thousands of dollars through airfares, migration agent bills, legal fees and settlement support, which may not be affordable for a recently arrived refugee.¹⁹

The Definition of Family

CRA holds further concerns that the priority for granting of an SHP Visa goes to the ‘immediate family,’ of the sponsor, defined in the Migration Regulations to mean only a spouse or de facto partner, a ‘dependent child’, or a parent if the sponsor is a child. A ‘dependent child’ is classed as a child under the age of 18, or if over 18, can be shown to have been considerably reliant on the sponsor for financial, psychological and/or physical support for a significant period of time before the visa application was made. This definition places great stress on refugee families to gather evidence of dependency for their adult children, or to have to leave their adult children in dire circumstances if they do not fit this criterion.

Furthermore, this is a narrow definition of family that excludes other important non-nuclear familial relationships, such as grandparents, uncles, aunts, nephews, nieces, and cousins, who may play significant roles in the life of the sponsor. These extended family members might only be prioritised if the sponsor lives in a regional location and does not hold a Protection or Resolution of Status Visa.

¹⁷ Refugee Council of Australia, “Less than one third of refugees in Australia’s humanitarian program are resettled from UNHCR,” *Refugees in the world*, accessed 27 April 2021, <https://www.refugeecouncil.org.au/less-one-third-refugees-australias-humanitarian-program-resettled-unhcr/>

¹⁸ Refugee Council of Australia, “The Community Support Program: Providing complementary pathways to protection or privatising the Humanitarian Program?” accessed 26 April 2021, <https://www.refugeecouncil.org.au/community-support-program-brief/>

¹⁹ Refugee Council of Australia, “Addressing the Pain of Separation for Refugee Families.”

The UNHCR Resettlement Handbook calls States to have a flexible definition of family, taking into consideration that different cultural dimensions and societal norms may result in different conceptions of what constitutes family. Moreover, the handbook makes clear that those on Refugee Visas may have lost nuclear family members due to violence and conflict in their country of origin, and rely on extended relations for survival, psychological support, and emotional care.²⁰

Asylum Seekers

Finally, CRA is concerned that any person who arrives by boat seeking asylum in Australia, without a visa, is not permitted to propose any of their family members for resettlement in Australia; this includes minors. Restricting a child asylum seeker's access to their family contravenes international law, especially the Declaration on the Rights of the Child, to which Australia has signed and ratified.

Conclusion

There are many barriers to obtaining a visa for family reunion in Australia through both the Migration Program and the Refugee and Humanitarian Program, predominantly caused by situating economic growth as the sole goal of these programs.

CRA calls on the government to integrate social considerations into its immigration programs, so that entry into the country is not focused on only how much one can pay or their working capacity, but also on the importance of their ongoing presence for the flourishing of their family unit. For the Parent Visas of the Migration Program, this can be done by assessing applicants on a needs-basis, even if they do not meet all of the eligibility criteria. This should be supported by a reduction in costs and processing times.

Family reunion through the Refugee and Humanitarian Program should not take away from the overall refugee quota but should still remain a priority so that no refugee or asylum seeker is unduly separated from their family. Newly resettled refugees should be supported with any associated costs of sponsorship, and again applications should be assessed on a needs-basis, rather than on a narrow definition of family.

Through a stronger government commitment to and support of the reunion of families, Australians, and our society, can only be better off, socially, psychologically, emotionally and financially.

²⁰ United Nations High Commissioner for Refugees, "UNHCR Resettlement Handbook," accessed 23 April 2021, <https://www.unhcr.org/46f7c0ee2.pdf>, pg. 178.