



29 April 2021

Senate Legal and Constitutional
Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Members of the Senate Legal and Constitutional Affairs Committee

Re: Inquiry into the costs of visas, waiting times and eligibility and access to family reunion visas

Amnesty International Australia welcomes the opportunity to provide input into the Senate 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. Our submission will primarily highlight the importance of enabling refugees on Temporary Protection Visas and Safe Haven Enterprise Visas to sponsor their families to join them in Australia.

Temporary visas

Amnesty International has consistently denounced the policy of granting temporary protection to refugees seeking asylum in Australia. We believe that the Australian government's use of temporary visas is to deter those seeking asylum in Australia and that this is a punitive approach to humanitarian protection, counter to Australia's international human rights obligations and needs to be urgently reviewed. Amnesty condemned temporary visas re-implementation in 2014 after Temporary Protection Visas had previously been in operation between 1999 and 2008.

There are now two primary classes of temporary visas for refugees who seek refuge without valid visas: Temporary Protection Visas (TPVs) and Safe Haven Enterprise Visas (SHEVs). A TPV allows refugees to stay in Australia for a maximum of three years, after that their protection claims need to be reassessed. The new temporary visa policy differs from the previous one as TPV holders are allowed to apply for another temporary visa only - they will never be eligible for permanent residency. The logic underlying this policy appears unnecessarily punitive since most refugees with temporary status are unlikely ever to be able to go home and the psychological impact of having to re-apply, in addition to the impacts of impermanence are evidenced to be profoundly negative. People on these visas would then have to reapply for temporary protection for their whole life. Further, the cost to taxpayers of re-processing an individual every three years is both wasteful and unnecessary.

The Safe Haven Enterprise Visa (SHEV) is another form of temporary visa, which is issued for a period of five years. Contrary to TPVs, it allows people to apply for a permanent migration visa. To get to apply for a permanent migration visa, SHEV holders have to commit to study or work in "a designated regional or rural area" without accessing income support for a minimum period of three-and-a-half of those five years.

Even then, applicants must meet all the conditions for the permanent migration visa (for example a skilled or family visa), because they cannot apply for a permanent protection visa. SHEVs theoretically offer a pathway to permanent residency, though most people are unable to satisfy the very restrictive eligibility criteria.

Family unions

TPVs and SHEVs do not allow for family reunion, nor do they allow the refugees to travel outside of Australia to meet their family members in third countries. Any departure from Australia without permission from the government (only granted in compelling circumstances) will result in a cancellation of their visa.

As TPV and SHEV holders cannot sponsor their family members to join them, they will never be able to reunite with their loved ones. Yet, the principle of family unity is fundamental in international law and repeated UNHCR Executive Committee Conclusions have emphasised the importance of maintaining family unity. People are forced to live with the fear of what could happen to their family in their home country, increasing the difficulty for them to properly settle into their new life.

Refugees have consistently identified lack of family reunion as a primary source of distress in Australia¹.

Our recommendations

Amnesty International recommends that:

1. The Australian government abolishes Temporary Protection Visas and Safe Haven Enterprise Visas and allows for all refugees to have permanent protection in Australia.

Should recommendation 1 not be implemented, we recommend that:

2. The Australian government allows for Temporary Protection Visa and Safe Haven Enterprise Visa holders to sponsor their family members to join them in Australia.

Conclusion

Thank you for the opportunity to contribute to this inquiry. We believe TPV and SHEV holders should be provided a pathway to permanency and must also be provided with the opportunity to reunite with their family members in recognition of the fundamental importance of the family unit to the wellbeing of all people.

Yours sincerely,

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¹ Family separation and family reunion for refugees: The issues
<https://www.refugeecouncil.org.au/family-reunion-issues/>