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**Committee Secretary
Senate Legal and Constitutional Committee
Department of the Senate
Parliament House
CANBERRA ACT 2600**

Dear Secretary

**SENATE INQUIRY INTO THE ADMINISTRATION AND OPERATION OF
THE *MIGRATION ACT* 1958**

Thank you for the opportunity to provide the Victorian Government's views on the Senate Inquiry into the Administration and Operation of the *Migration Act* 1958.

Victoria's submission relates primarily to Terms of Reference (c)--"the adequacy of health care, including mental health care, and other services and assistance provided to people in immigration detention", and (e) "other related matters", and highlights the following issues:

- the effect of detention on Temporary Protection Visa (TPV) holders who have been released into the general community from detention centres;
- the need to exercise compassion and commonsense in making decisions related to detention and deportation; and
- the need for an urgent review of the pre-departure, post-arrival and longer term health care needs of sub-Saharan refugee arrivals.

Effect of detention on TPV holders

According to DIMIA, approximately 2,000 TPV holders have been released from detention into Victoria since 2000-2001, of whom approximately 48% are Iraqis and 35% Afghanis, mainly Hazara. The length of time spent in detention for TPV holders varies between 6 and 28 months.

The Victorian Government, through its Community Support Fund, recently funded the Brotherhood of St Laurence Ecumenical Migration Centre (EMC) to undertake research into the situation of TPV holders in Victoria. EMC's research documents the

impact of detention on TPV holders from various communities, particularly in relation to their mental health as a result of prolonged periods in high-security immigration detention centres.

EMC's research found that asylum seekers' experiences of trauma and torture in their home countries are exacerbated by post-arrival detention, and their release from detention on a TPV has the following effects:

- continued denial of psychological security and stability that perpetuates the experience of punishment, powerlessness and lack of control over the future;
- loss of hope and trust in established processes is re-affirmed; and
- experience and witnessing of self-harm and trauma in detention continue to diminish mental health and emotional well-being.

EMC's research concluded that the mental health and emotional health of TPV holders is also affected by the chronic under-servicing of TPV holders through deliberate exclusion from full Commonwealth settlement services and entitlements, including ineligibility for family reunion and with no rights to return travel; restrictive work rights; limited English tuition that affects their employability; and being subjected to complex legal processes and constantly changing legislative requirements.

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.

Detention and deportation issues

The Victorian Government believes the Commonwealth Government should exercise common sense and compassion when dealing with people who have overstayed their visas or are applying for humanitarian visas on compassionate grounds.

Recent cases in Victoria provide evidence of the distressing effect of unsympathetic decisions affecting persons threatened with deportation, their families and members of their community.

They demonstrate the need for exercising common sense and compassion:

- Mrs Cui Yu Hu, the 104 year old Chinese woman who had been in Australia since 1995;
- the young Thai man, Mr Nak Assayatheptatee, who had been in Australia since 1997;

- the case of the Nigerian PhD student, Mr Mohammed Olajide and his family; and
- the 15 year old orphaned Filipino, Robert Lumbes, who faced deportation after living in Australia for seven years.

These cases illustrate the need for compassion and speedy action to allow deserving people to remain in Australia on a permanent basis.

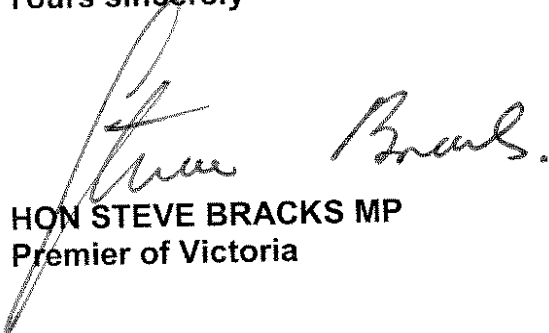
Health care needs

The low health status of new arrivals from Africa under the humanitarian scheme, and their consequent significant rates of infectious and communicable diseases are of concern to the Victorian Government. There is 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.

I look forward to the Inquiry's findings.

Yours sincerely



HON STEVE BRACKS MP
Premier of Victoria