

SUBMISSION TO THE SENATE ENQUIRY INTO THE ADMINISTRATION AND OPERATION OF THE MIGRATION ACT 1958

1. Introduction

I do voluntary work with refugees. In the course of that work I have talked to many Afghan and Iraqi refugees. These experiences have taught me two things I would like to share with the senate committee. They are that:

- the TPV system is cruel and unnecessary.
- the prevailing culture in DIMIA seems antagonistic towards TPV holders being given Permanent Protection visas.

2. The TPV system is cruel and unnecessary

It is cruel because it forces people that Australia has accepted as bona fide refugees measured against the UN criteria to live for three or more years in a stressful kind of limbo. They are unsure whether they will finally be accepted by Australia and cannot start to rebuild their shattered lives with any confidence or certainty. They are, in many cases, separated from wives, children and parents who are living in precarious and dangerous situations in Pakistan or Iran. They are not allowed to go and help their families since a condition of the TPV is that they do not leave Australia.

The TPV system is unnecessary because, as rural Australia has quickly discovered, these people are good, hard working people, people who will be good for Australia. It is also unnecessary because, contrary to the myth-making headlines of the press, the numbers involved are not great. The government (somewhat dishonestly) includes TPV holders in the figure it gives each year for people accepted by Australia for migration on humanitarian grounds. And those figures in recent years have been below the government's own ungenerously small targets for this category of immigrant. In other words, even every single one of them was given a permanent protection visa the government would still have taken in fewer refugees than the small target it has set for itself.

Finally, the TPV system is unnecessary because history shows that with the right sort of leadership, Australia and Australians are very good at coping with this kind of immigration. The Fraser government showed that in its handling of Vietnamese immigrants, and Australia has a long and proud tradition of accepting and helping immigrants in need of a new country and a new start. We did so much better with the Vietnamese than we are now doing with the Afghans and the Iraqis.

3. The prevailing culture in DIMIA is one that seems antagonistic towards TPV holders being given Permanent Protection visas

This is shown both by the attitude of some DIMIA officers during interviews with applicants for a Permanent Protection Visa and by the large number of DIMIA decisions that are reversed by the independent reviewing body, the RRT.

3.1. The attitude of some DIMIA officers during interviews with applicants for a Permanent Protection Visa

In my work as a volunteer, I have sat in on 11 interviews and observed the methods of six DIMIA interviewing officers. Of those, three were friendly and gave the sense that they would examine the claims made fairly and sympathetically. Two were coldly bureaucratic and gave me the impression they were just going through the motions and that the real object of the exercise was to establish that the interviewees no longer fitted the definition of refugee and could be sent back to their countries of origin. Finally, one interviewer was downright unpleasant and inquisitorial and would surely not have behaved as he did if he had not believed the department's chief objective in these cases was to reject applications for permanent visas from TPV holders.

Since members of the committee may not have had the opportunity to observe DIMIA interviewers at work I will describe the best and the worst of the interviewers I have encountered.

3.1.i. Interviewer X

X's attitude and approach was belligerent. Had I been the interviewee, the tactics used would have seriously unsettled me and made it very hard for me to present my case fully and effectively. X was clearly more interested in tripping the client up and finding fault with what he said than in finding out whether his claim to refugee status was a valid one. His approach was thoroughly unsympathetic and confrontational.

The tone he used was hectoring and demeaning. It was the tone of an irate schoolteacher, patience sorely tried, putting a misbehaving schoolboy in his place. He rudely cut the client short a number of times when he was attempting to explain things more fully. Paying no regard to the difficulties of an interview conducted through an interpreter, he more than once implied the client was stupid (or evasive) when he failed to answer a question in the precise form in which X wanted it answered (even though the answer given was sensible and relevant). His final 'Thank you' each time the client finally answered the question in the precise form he wanted was full of sarcasm.

Even more unprofessional were his quite unjustified accusations that the client was being 'untruthful'. These accusations were accompanied by stern reminders of the penalties attached to telling such 'untruths'. The accusations were made on two occasions. On neither occasion was there any but the most technical of justifications for the accusation. On both occasions the interviewer demonstrated a complete lack of human sympathy and cultural sensitivity.

- On the first occasion the 'untruthfulness' consisted of a clerical error committed by the volunteer who had helped the client write a submission to DIMIA. The omission was clearly a simple clerical error and related to a circumstance that had no relevance whatsoever to the question of the client's refugee status. The interviewer nonetheless chose to paint this clerical error as a serious offence involving deliberate untruthfulness.

- On the second occasion the so-called 'untruthfulness' occurred simply because the interviewer's Australian definition of 'family' was different from the client's Iraqi definition. When this became clear, far from apologising for the accusation of 'untruthfulness', the interviewer brusquely told the interviewee that the Australian definition of family was the only acceptable one in this interview!

As was no doubt their intention, these frivolous, unjustified accusations clearly unsettled and upset the applicant and made it harder for him to put his case clearly and effectively.

3.1.ii. Interviewer Y

Y, in contrast to X, was friendly and sympathetic. He clearly saw it as his job not to trip the client up, but rather to help him make the best possible case for himself that the facts allowed. At one point, for instance, he made it as clear as possible which parts of the applicant's submission were most likely, and which least likely, to help his case. His summary of how the client's claims matched with the UN definition of a refugee was not done in a negative way but was clearly intended to help the client understand where his case was weak and why – and where it was stronger and why. He could not have done more to show his understanding and sympathy – and to give as much help and guidance as he could to ensure that if the client did have a case, that case would be properly stated and heard.

Y's approach to these interviews should be the model DIMIA encourages all its interviewing officers to follow. In contrast, people like X should never be allowed to do this sensitive job. He showed no understanding of, or sympathy for, the language difficulties faced by clients, the stressful nature of these interviews or the validity of cultural differences. He was aggressive towards the client, clearly intent all through the interview on tripping him up and finding fault with him.

3.2. The large number of DIMIA decisions that are reversed by the independent reviewing body, the RRT.

My own conclusions are necessarily impressionistic. I do not have access to the data on RRT appeals. If the committee, as I expect, has access to that data it will be able to check whether the following impressionistic conclusions are correct:

- That DIMIA began by rejecting most applications for Permanent Protection Visas made by Afghan and Iraqi TPV holders.
- That so many of those original rejections were overturned on appeal to the RRT that DIMIA began to accept more Afghan and Iraqi applications for PPVs.
- That even though the RRT's actions forced DIMIA to be somewhat more humane in its response to applications for Permanent Protection it still rejected many whom the RRT then accepted on appeal.

Thank goodness that the RRT is genuinely independent and judges cases fairly on the basis of the UN convention and Australia's responsibilities under that convention. Its decisions have exposed DIMIA's attitudes towards TPV holders for what they are – antagonistic towards, and prejudiced against, the idea that most TPV holders have

very good reasons for fearing persecution on the grounds of race, religion, nationality, membership of a particular social group or political opinions should they return to their country of origin.

4. Conclusion

Finally, what do I hope will be in the committee's final recommendations?

- Ideally, that TPVs should be phased out altogether. People who apply for refugee status who are found to fit the definition of a refugee established by the UN convention should be given permanent protection from the start.
- Failing that, for DIMIA to be firmly instructed to change its attitude towards holders of TPVs who apply for permanent protection visas. Instead of tacitly or overtly encouraging its officers to do what they can to prevent TPV holders gaining permanent protection visas, DIMIA should encourage them to treat each case as sympathetically and professionally as Mr Y (described above) does.