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## **Submission to Australia's Humanitarian Programme 2016-17**

### **Introduction**

The Federation of Ethnic Communities' Councils of Australia (FECCA) is the peak, national body representing Australians from culturally and linguistically diverse (CALD) backgrounds. We work to promote fairness and responsiveness to our constituency in the delivery and design of government policies and programs. At the heart of FECCA's work is promoting multiculturalism, embodied in equitable policies and non-discriminatory practices for all Australians, regardless of their cultural, linguistic, ethnic, racial or religious backgrounds. Towards this end, FECCA strives to ensure that the needs and aspirations of various cohorts of Australia's culturally and linguistically diverse population are heard by policy and decisions makers, as well as the broader public.

FECCA welcomes the opportunity to contribute to formulating the Australia's Humanitarian Programme 2016-17 and future years, and commends the Government's effort to develop a national dialog on the management, size and composition of the programme through this submission process.

### **Contributions of humanitarian entrants**

Australia has, over the years, maintained healthy and effective programmes and policies to assist people from culturally and linguistically diverse backgrounds, including humanitarian entrants. FECCA continuously advocates and encourages the Government to adopt a Humanitarian Programme with a longer term vision which fosters the ability of humanitarian entrants to contribute, participate and belong in Australian society, all the while being supported by strong Government services that respond to the settlement needs of this cohort.

There is no framework to measure economic and social contributions of individuals from humanitarian backgrounds. Nonetheless, existing evidence suggests that humanitarian entrants are the most entrepreneurial in Australia.<sup>1</sup> 'Humanitarian migrants tended to work several jobs in their first few years in Australia in order to finance their own business. They display greater entrepreneurial qualities when compared with other migrant groups, with a higher than average proportion engaging in small and medium business enterprises. This finding is further substantiated by the number of Humanitarian migrants reporting income from unincorporated businesses which increases with length of residency, increasing sharply after 5 years.'<sup>2</sup> In addition, humanitarian migrants represented 1.4% of all migrants with investment income.<sup>3</sup>

Apart from the above economic advantages, labour market participation and filling Australia's skills shortages ensuing through a successful humanitarian programme, Australia benefits from numerous non-economic contributions, *inter alia*, mitigating ageing population, enriching Australia's diversity and multiculturalism, volunteering and social care roles and contributions to the development of rural and regional areas. Considering these factors, FECCA recommends that the Government increase the humanitarian intake to 20,000 in the 2016-17 financial year.

The two main components of the current humanitarian intake, i.e. Refugee category and Special Humanitarian Programme, pave way for asylum seekers to enter Australia. Although it is beneficial for both asylum seekers and the Government to accept individuals with pre-existing ties (family or otherwise) to Australia, we urge the Government to prioritise the condition and asylum needs of the potential humanitarian entrants, over their connections to Australia.

### **Differentiating asylum seekers**

The right to seek asylum is entrenched in Article 14 of the *Universal Declaration of Human Rights*. In addition, Australia is bound by a number of other international instruments including the *Convention Relating to the Status of Refugees 1951* and the *Optional Protocol 1967* (the Refugee Convention), *International Covenant on Civil and Political Rights* (the ICCPR), *UN Convention Against Torture and Other Cruel, Inhumane and Degrading Treatment or Punishment* (CAT), *Convention on the Rights of the Child* (CRC) and the *International Covenant on Economic, Social and Cultural Rights* (ICESCR). International law imposes an obligation on Australia to treat all asylum seekers equally and equitably irrespective of the time and mode of arrival.

As previously highlighted by FECCA, continuous use of the dichotomy 'lawful-unlawful arrival' and terms such as 'illegal maritime arrivals', 'queue jumpers' perpetuate the belief that seeking asylum is illegal. These adverse and unsound categorisations by definition are

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<sup>1</sup>Humanitarian migrants the most entrepreneurial: ABS report, Australian Bureau of Statistics, <http://www.abs.gov.au/AUSSTATS/abs@.nsf/Previousproducts/3418.0Media%20Release12009-10> (accessed 21/03/2016).

<sup>2</sup> Australian Bureau of Statistics, *3418.0 – Personal Income of Migrants, Australia, Experimental, 2009-10*, <http://www.abs.gov.au/AUSSTATS/abs@.nsf/Previousproducts/3418.0Main%20Features12009-10?opendocument&tabname=Summary&prodno=3418.0&issue=2009-10&num=&view=> (accessed on 21/03/2016).

<sup>3</sup>*Ibid*

punitive and have a lasting negative impact on social cohesion and community harmony. FECCA echoes its previous recommendations in relation to developing a bipartisan approach to refugee policy that denounces stereotyping, viewing refugees as an economic burden, and fear-mongering about refugees through the use of aforementioned attitudes and terminology.

FECCA has raised concerns over granting Temporary Protection Visas (TPVs) and Save Haven Enterprise Visas (SHEVs) and highlighted that these temporary visas do not provide durable solutions to refugees. Lack of or limited access to services such as employment, education and other services are also challenges faced by this cohort. Temporary visas of this nature place humanitarian entrants in precarious situations, and the visa holders lack understanding of their visa conditions and obligations while, there is no clear pathway to Permanent Residency. For example, Professor Jane McAdam and Kerry Murphy note that while the SHEV provides a pathway to permanent residency, there is 'real question about how many refugees would actually be able meeting the requirements for the onshore visas technically available to them'.<sup>4</sup>

FECCA recommends that the Government review this process to provide access to permanent pathways to Australian residency and citizenship without discrimination.

### **Unaccompanied Humanitarian Minors**

Considering the global influx of asylum seekers, especially in view of the European refugee crisis, it can be reasonably anticipated that a substantial number of the asylum seekers could be unaccompanied humanitarian minors. As of 31 January 2016, there were 435 children in detention facilities and community detention.<sup>5</sup> The statistics are not disaggregated to reflect the number of children who are unaccompanied humanitarian minors but are inclusive of both minors with family members and those who are unaccompanied by an adult family member. Bearing in mind the particular vulnerabilities of unaccompanied minors and the manifest comparisons between the needs of those qualifying under the women at risk program, the Government could potentially extend the 'women at risk' programme to include 'women and children at risk' which would encapsulate and prioritise unaccompanied minors and other children in similar vulnerable situations.

Under the currently applicable legal framework, the legal guardian of the unaccompanied minors is the Minister for Immigration and Border Protection. This raises concerns regarding conflict of interest and separation of powers as the Minister is involved in both executive discretion and decision making. This has been viewed as a fundamental flaw in the system as the legal and policy roles are blurred between the Minister as the legal guardian of unaccompanied minors in detention and the Minister as the person who makes decisions about visas.<sup>6</sup>

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<sup>4</sup> No, Clive, asylum seeker bill won't make it easier for the most vulnerable, December 2014, <http://www.kaldorcentre.unsw.edu.au/publication/no-clive-asylum-seeker-bill-won%E2%80%99t-make-it-easier-most-vulnerable#sthash.JPmCw1bh.TZLUoXxR.dpuf>, (accessed on 24/03/2016).

<sup>5</sup> 54 children in Australian-funded detention facilities in Nauru, 88 children in detention facilities in Australian mainland and 293 children in community under residence determinations. Immigration Detention and Community statistics summary, 31 January 2016, Department of Immigration and Border Protection, p.4.

<http://www.border.gov.au/ReportsandPublications/Documents/statistics/immigration-detention-statistics-31-jan-2016.pdf> (accessed on 18/03/2016).

<sup>6</sup> Tessa Boyd-Caine, *Protecting the Public? Detention and Release of Mentally Disordered Offenders*, 2012, Chapter 1, p. 2.

The UN Committee on the Rights of the Child reinforced the need for States to appoint a guardian or advisor as soon as an unaccompanied or separated child is identified. The guardian should be consulted and informed of all actions concerning the child, and should have authority to be present in all planning and decision-making processes involving the child.<sup>7</sup> Good practice examples maintain a clear distinction between the role of the guardian and the immigration authorities.<sup>8</sup> In Belgium and Sweden, for example, guardianship is appointed by an independent body, this being the Guardianship Service and Chief Guardian respectively.<sup>9</sup> Similar recommendations were made by Australian Human Rights Commission in 2014.<sup>10</sup> Thus, it is imperative that an independent body is established to act as the legal guardian of the unaccompanied minors with transparent powers and obligations.

The current support mechanisms for unaccompanied minors are state and territory based and as a result lacks consistency of supports. Among other issues, unsuitable guardianship arrangements and breakdown of guardianship arrangements of this cohort result in homelessness and social isolation.<sup>11</sup> Considering the compounded vulnerabilities of this particular group and the present fragmented approach, FECCA proposes adopting a national framework that applies uniformly across Australia.

## **Current programmes**

### **Syrian and Iraqi Refugee intake**

UNHCR estimates the global resettlement needs to be at over 1,150,000 persons, including the resettlement needs of refugees in a protracted situation where resettlement is envisioned over a period of several years.<sup>12</sup> In such conditions, FECCA welcomes the Government's response to the current and ongoing humanitarian crisis in Europe by accepting an additional 12,000 Syrian and Iraqi refugees.<sup>13</sup> Considering the magnitude of the ongoing crisis globally, and Syria and Iraq in particular, FECCA encourages the Government to continue accepting ad hoc refugee intakes in addition to the current humanitarian intake.

### **Community Proposal Pilot (CPP)**

Creating additional avenues to assist asylum seekers to apply for humanitarian visas is a commendable and necessary step in the right direction. It was reported that the demand for places under this category exceeded the authorised number of visas (500 visas) with, 61 percent of the visas being granted to people under 40 years of age and, fiscal benefits of

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<sup>7</sup>United Nations Committee on the Rights of the Child, *General Comment no. 6, Treatment of Unaccompanied and Separated Children outside their Country of Origin (2005)*, para 33.

<sup>8</sup>*There are Alternatives – A handbook for preventing unnecessary immigration detention*, International Detention Coalition, Melbourne, Australia, 2015, p.26.

<sup>9</sup>*Ibid*

<sup>10</sup> *The Forgotten Children – National Inquiry into Children in Immigration Detention*, Australian Human Rights Commission, November 2014, p. 38

[https://www.humanrights.gov.au/sites/default/files/document/publication/forgotten\\_children\\_2014.pdf](https://www.humanrights.gov.au/sites/default/files/document/publication/forgotten_children_2014.pdf) (accessed on 24/03/2016).

<sup>11</sup> *Unaccompanied Humanitarian Minors in Australia – An Overview of National Support Arrangements and Key Emerging Issues*, Multicultural Youth Advocacy Network, September 2012, P. 14.

<sup>12</sup> *UNHCR Projected Global Resettlement Needs 2016*, p. 12, <http://www.unhcr.org/558019729.html> (accessed 21/03/2016).

<sup>13</sup> Australia's response to the Syrian and Iraqi humanitarian crisis, <https://www.border.gov.au/Trav/Refu/response-syrian-humanitarian-crisis> , (accessed 20/13/2016).

\$2.04 million from visa application charges and savings from not providing access to the Humanitarian Settlement Services Program.<sup>14</sup>

However, the cost of this program can be prohibitive for non-established families and communities, therefore, FECCA recommends reviewing the cost of this program. Given that there are minimal costs to the Government to grant a visa under the CPP, the visa category should stand independent of the offshore component. Considering the success of the programme, FECCA urges the Government to increase the number of visas granted under this category.

### **No Interest Loan Scheme (NILS)**

NILS is available to those on a Global Special Humanitarian Visa (subclass 202) or individuals who have family members arriving in Australia under the same visa class.<sup>15</sup> The loan scheme will cover up to 75 per cent of the travel costs to be repaid after the respective individual's arrival in Australia. This support can include assistance, where possible, in attaining any documentation necessary to facilitate departure to Australia, and dedicated staff present in most points of transit to ensure a smooth transition between flights.<sup>16</sup> Humanitarian entrants, most of whom have experiences of trauma and/or torture, can immensely benefit from such a support scheme if they are unable to source funding to support the arrival of their family members and friends. Financial support of this nature as well as assistance at points of transit could be extended to other humanitarian visa categories.

### **Immigration Advice and Application Assistance Scheme (IAAAS)**

The Immigration Advice and Application Assistance Scheme (IAAAS) gives free, professional migration advice and visa application assistance to people who have arrived lawfully in Australia and who meet specific eligibility criteria with respect to disadvantage.<sup>17</sup> Currently there are 19 IAAAS providers located throughout Australia. All of these providers have registered migration agents, skilled in IAAAS services and the providers include commercial migration advice businesses, legal aid offices or community-based organisations, including migrant resource centres.<sup>18</sup> Considering the importance of the services rendered by IAAAS providers, FECCA recommends increasing the number of providers across Australia and taking steps to educate the relevant stakeholders about these services.

### **Post settlement support**

A successful humanitarian settlement programme requires implementation of adequate and complementing economic and social supports, encouraging and pursuing permanent

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<sup>14</sup> Migrant intake into Australia, Productivity Commission Draft Report, November 2015, p. 28, <http://www.pc.gov.au/inquiries/current/migrant-intake/draft/migrant-intake-draft.pdf> (accessed 20/13/2016).

<sup>15</sup> Is there any support for Refugee and humanitarian visa holders? Department of Immigration and Border Protection, <https://www.border.gov.au/Lega/Lega/Form/Immi-FAQs/is-there-any-support-for-refugee-and-humanitarian-visa-holders> (accessed 21/03/2016).

<sup>16</sup> *No Interest Loan Scheme*, International Organisation for Migration, <http://www.iomaustralia.org/PDF/nilsENGLISH.pdf> (accessed on 21/03/2016).

<sup>17</sup> Fact Sheet – Immigration Advice and Application Assistance Scheme (IAAAS), Department of Immigration and Border Protection, <https://www.border.gov.au/about/corporate/information/fact-sheets/63advice> (accessed on 21/03/2016).

<sup>18</sup> *Ibid*

resettlement as opposed to temporary protection and meeting Australia's international obligations under human rights conventions, including the Refugee Convention. Humanitarian entrants encounter a number of obstacles in accessing education, employment, housing and general health and life satisfaction during the resettlement process.<sup>19</sup> With the increase in intake of Australia's migration programme, including the additional intake of humanitarian entrants, it is imperative that the existing settlement services network, community based organisations and migrant resource centres are adequately resourced to provide the necessary settlement supports to this cohort.

### **Addressing Australia's skill shortages**

Asylum seekers with educational qualifications and work experience in areas where there are recognised skill shortages in Australia can be channelled through skilled or work visa categories, thereby creating additional scope for other humanitarian entrants. It has been flagged that these potential skilled asylum seekers may face barriers in relation to English language proficiency, qualification recognition, and lack of Australian work experience. A targeted programme with the assistance of the existing settlement service providers, community organisations and the business sector could assist people who might be eligible to apply under this category to overcome aforementioned barriers.

Providing access to family reunion for the humanitarian entrants would also be beneficial to the economy in the long-run. Research suggests, despite public perception that skilled migrants contribute most to the economy, cohorts such as humanitarian entrants and those that come in through the family migration stream provide similar, yet often overlooked benefits to Australian society'.<sup>20</sup>

Subject to the migrant intake remain at the current level,<sup>21</sup> Australia's migrant and humanitarian intake for the next fiscal year will be over 200,000. FECCA recommends that the Government identify additional pathways including, skilled migration, work visas and increasing the number of visas granted under CPP, to supplement the humanitarian intake.

### **Recommendations**

- Increase the intake of asylum seekers up to 20,000 in 2016-17. This could be achieved by identifying new options for granting visas for this cohort. This can be achieved by channelling skilled and qualified asylum seekers through skilled or work related visas. Additional supports must be provided to individuals to have their qualifications recognised and English language supports.

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<sup>19</sup> Migration and Humanitarian Programmes, [http://www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/pubs/rp/BudgetReview201516/Migration](http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/BudgetReview201516/Migration) (accessed on 20/03/16).

<sup>20</sup> Siew-Ean Khoo, Peter McDonald and Barbara Edgar, Contribution of Family Migration to Australia, Australian Demographic and Social Research Institute, The Australian National University, April 2013, <http://www.border.gov.au/ReportsandPublications/Documents/research/family-migration-contribution-january-2014.pdf> (accessed n 24/03/2016).

<sup>21</sup> Fact Sheet - Migration Programme planning levels, Department of Immigration and Border Protection, <https://www.border.gov.au/about/corporate/information/fact-sheets/20planning> (accessed n 24/03/2016)

- Separate the Community Proposal Pilot from the offshore component of the humanitarian intake, and increase the number of intakes under this category.
- Create a special pathway to expedite and support unaccompanied minors and children in similar situations. Consolidating such a programme with the 'women at risk' programme is an avenue the Government could focus on. This must be followed by instituting an independent body with transparent and clear duties and obligations to act as legal guardians of unaccompanied minors and create a nationally consistent framework to uphold health and well-being of unaccompanied minors and other children in similar vulnerable situations.
- Increase funding and the number of institutions providing IAAAS and NILS while promoting such services through appropriate networks.
- Consolidate Australia's humanitarian programmes encompassing refugees and asylum seekers in line with Australia's international obligations.

FECCA hopes that the perspectives provided above will inform the development of a humane, non-discriminatory and responsive Humanitarian programme. For further information, please contact FECCA office on (02) 6282 5755 or at [admin@fecca.org.au](mailto:admin@fecca.org.au).