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DEVELOPMENT
& PEACE**
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Forgotten People - Asylum in Australia

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1. INTRODUCTION

Fatma

Fatma (not her real name) is a member of the Hazar Minority. At home in Afghanistan her friends and family members have been tortured and killed by the Taliban. She and her husband had to escape at short notice and took a perilous journey across rugged mountain country and secured passage to an unknown destination. She has just been released from a detention centre in Australia after being granted Temporary Protection Visa Status. When she entered the detention centre she was three months pregnant. During her pregnancy and time at the detention centre she requested extra milk to drink, as she felt ill and depleted. She states that she was refused additional milk. Now she has been released from detention and her baby is underweight and unwell. She and the doctors are concerned that this may relate to her lack of nutrition in pregnancy. She tells of her concerns about the care of people in the detention centres and how whilst in detention she listened for two days as a woman screamed in labour and was finally taken to hospital to have her baby. She is worried about her future and that of her child. She speaks very little English and has concerns about whether she and her husband will be able to secure housing after their emergency accommodation is given to others in need. Her husband is keen to work. She has a sister with four children still in detention. She is concerned that by speaking out she may place at risk the lives of her family back home and delay the release of her sister's family. Despite this, she says the story of life in detention must be heard by the Australian people. If she does not speak out the struggles of asylum seekers will remain hidden and people will not understand.

The position of the Catholic Commission for Justice Development and Peace Melbourne (CCJDP) maintains that it ought not to be the mode of arrival which determines a class of refugee status to which lesser entitlements attach but rather the merits of the case which brings the refugee to Australian shores. The "offshore" program for refugee resettlement has many gaps and inadequacies and in the reality of world conflict many refugees have no option because of immediate danger, distances, and backlogs but to seek protection as best they can. The distinction between the "offshore" and "onshore" refugee resettlement schemes is outlined in Chapter 3.

This paper will examine the position of those refugees who have been classified as "temporary protection visa refugees" and will also very briefly examine the current position in relation to a small group of asylum seekers who live in the community and are referred to as "onshore asylum seekers", who do not have work rights or any entitlements to Asylum Seeker Assistance Scheme (ASAS).

Many of those arriving in Australia by boat are desperate people who, by reason of persecutory regimes, ethnic cleansing and other human rights abuses, faced imminent danger and have been forced to escape to safety. It is no coincidence that the two countries that are represented by the largest number of boat people to Australia in the past three years are Iraq and Afghanistan. In Iraq bombings and sanctions, together with dissident activity against the leader Saddam Hussein, have led to large-scale dislocation, torture and political assassinations of many of the citizens. In Afghanistan, the Taliban regime has persecuted those intolerant of its mode of operation and conducted ethnic cleansing of minorities groups such as the Hazar who make up many of the young people who have fled to Australia.

So often in public discussion, the link between the arrival of boat people on our shores and the reasons for their flight from their homelands is not made. From 1999-2000, 45% of all visas granted under the humanitarian program went to people from the former Yugoslavia, 30% were from the Middle East (especially Iraq, Afghanistan and Iran), and just under 24% were granted to people from Africa.¹ The old adage, "There but for the grace of God, go I" applies, as purely by accident of birth any person could have been born in a country torn apart by conflict, poverty, war and persecution.

Pope John Paul II in the context of immigration has stated a warning that, *"...in the modern world, public opinion is often the chief rule that political leaders and legislators prefer to follow. The danger is that information filtered only according to a country's immediate problems, will be reduced to absolutely inadequate aspects, far from expressing the tragedy of the real situation."*

¹ Department of Immigration Fact Sheet 40, *Australia's Refugee and Humanitarian Program*, updated 2 November 2000, www.immi.gov.au

This warning is significant in Australia today, in the context of the manner in which refugees have been treated by successive governments.

For instance, very few Australians would know that within Afghanistan and Iraq there are no foreign posts for the lodging of refugee claims so often referred to in Australia as the "offshore programme". False descriptions such as "queue jumping" and "forum shopping" imply that there exists across the globe some semblance of accessible, systematic and timely processing of refugee applications. In many countries people who have a well-founded fear of persecution have to leave their homes, families and businesses behind in order to travel the long distances across difficult terrain to make a formal application. This flight often costs them their place in a refugee camp. Refugee camps themselves are often not the safest places for families fleeing persecution. Stories of marauding militia and violent incursions into camps abound. Those seeking asylum in Afghanistan and Iraq have to travel as far as Islamabad in Pakistan or the outreach post Australia operates at Teheran in Iran to take advantage of the formal channels. A quick examination of an atlas will indicate the extent of terrain that must be covered. The journey is clearly not an easy one for families to undertake. Those family members at most risk are often secured a way out of the country as other family members head for the hills. On arrival in Australia, they are detained in detention centres and worry about the fate of the family members they left behind.

Even where overseas posts do exist, the backlogs of applications lodged can be high and staff commonly report allegations of corruption and short staffing.² When overseas posts are better staffed and resourced, less remote from regions of tension and have more integrity, then perhaps more refugees in imminent danger will be able to access offshore programs. But until then, many will face incredible danger to escape from significant threat of persecution. It is therefore not surprising that so many people are unable to take advantage of the "offshore program" and arrive in Australia by boat. It is not such an unusual human trait for desperate families whose lives are at risk to seek freedom, liberty and safety at great personal cost.

² For more discussion see *Hordes or Human Beings? – A discussion of Some of the Problems Surrounding Australia's Response to Asylum Seekers and Possible Solutions to Those Problems*, Occasional Paper Number 8, JDP, March 2000

Nothing in this paper is intended to condone or support the illegal operations of people who use the plight of asylum seekers to 'line their pockets'. Nor is this paper intended to support persons who seek to enter Australia without valid reason. The current public debate however has often demonized boat people as "illegals", "criminals", "forum shoppers", "queue jumpers" and "double dippers", often ignoring the reality of their situation and the international law which requires that Australia offer people protection if they have a well founded fear of persecution.

As the CCJDP stated in its March 2000 Occasional paper, *Hordes or Human Beings*,³ resolving the issues involved in the granting of refugee status and the treatment of refugees and asylum seekers is by no means easy. The business of granting refugee status is a complex and difficult one for government, courts, tribunals and immigration officials. The most pressing concerns are: the need to ascertain the bona fides of the applicant for refugee status; the desire of government to appease the populace having regard to its own continuance in power; the financial impact of increased numbers of refugees; the need to deter persons from being encouraged to falsely seek refugee status, especially caused by concerns about people-smuggling operations.

2. International Law

The Preamble to the United Nations *Convention relating to the Status of Refugees* 1951 (COR) notes that a grant of asylum will place heavy burdens on certain countries. It notes that finding a satisfactory solution relies upon international cooperation. While originally the Convention applied to pre-1951 refugees only, this temporal limitation was removed by Article 1 (2). Article 1A (2) of the Convention was amended by the *Protocol Relating to Refugees* of 1967⁴, to include events after 1951 in the definition of refugee. It applies to a person who as a result of events (whether occurring before or after January 1 1951):

³ JDP website: www.melb.catholic.aust.com/agency/justice.html

⁴ 21 January 1967, 606 UNTS 267. Acceeded to by Australia on 13 December 1973.

"Owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear is unwilling to return to it."

In addition to this definition, and critical to any consideration of the granting of temporary safe haven, is the responsibility of Australia under the Convention to protect from unsafe return persons who may be persecuted. Article 33 gives rise to a principle of non-refoulement (or non-return). The COR states:

"No contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, member of a particular social group or political opinion."

Other main international standards relating to the Temporary Protection Visa holders (TPV holders) include the Convention On Civil and Political Rights (ICCPR), The Convention on the Rights of the Child (CROC), the Convention Against Torture and other Cruel and Degrading Treatment or Punishment (CAT) and the Convention on the Elimination of All Forms of Racial Discrimination (CERD).

3. Australia's Involvement with Displaced Persons

Australia's entire history is one that reflects massive immigration. From the late eighteenth century the British surprised the Aboriginal custodians of the land with the depositing of convicts and settlers. Since 1945 almost 5.7 million people have come to Australia as new arrivals from overseas. Nearly one in four of Australia's population of nearly 19 million was born overseas. Over the previous three years New Zealand has supplanted England as the largest source of migrants.⁵

⁵ Department of Immigration Fact Sheet 2, *Key Facts in Immigration*, updated 7 August 2000, www.immi.gov.au

There are three main streams of migrants who are granted entry to or residence in Australia through its current programs. These are the skilled stream, the family stream and the humanitarian program. The last mentioned stream, the humanitarian program, itself includes two discrete groups – persons who are overseas when they receive official permission to enter Australia (under the “offshore” program) and those who have entered Australia without permission but who, while here, are accepted as being “genuine” refugees (under the “onshore” program).

The resettlement program assists people while they are still overseas and for whom resettlement in another country is the only option (the “offshore” program). It involves the provision of aid, diplomatic efforts and peacekeeping, and forms part of a world effort with other nations in the United Nations.

It is important to note that more can and should be done at the preventative end by Nation-States to prevent the rise of disputes and internal conflict, and that Western Nations could contribute more resources to peacekeeping initiatives. A succession of United Nations Secretaries General over the past two decades have lamented that it is difficult for the UN to be effective unless the wealthier nations meet their stated commitments.⁶ A reinforced, better-funded United Nations would be able to make speedier responses and put in place preventative measures so that countries could avoid being faced with major humanitarian crises. Some effort is being made in resolving disputes but often this can be undermined by vested interests in countries with strategic economic or military objectives.

It is estimated that across the world there are 18 million displaced people. It is often the developing nations which border the area of conflict that bear the greatest burden in the numbers of people they receive and yet these countries usually lack adequate resources to support their own people. In the past 50 years 600,000 refugees and displaced people have settled in Australia.⁷ Despite the regular statements by the Minister of Immigration, Mr Philip Ruddock, that Australia is pulling its weight in receiving refugees, the comparisons with other countries are not as impressive as

⁶ K. Annan, General Secretary of the United Nations, Executive Summary: Report of the Panel on United Nations Peace Operations, 2000
www.un.org/peace/reports/peace_operations/docs/summary.html

might be believed. Given the relative wealth of Australia, its landmass and similar population it is interesting to make the comparison with the Netherlands.⁸ The UNHCR noted in 1998 that Australia took 61,800 people as "Refugees and Others" whilst the Netherlands took 131,800. Of the other nations, France took 131,800, the United Kingdom 116,000, Germany 949,200 and, in our region, Thailand accepted 138,000.

The "offshore" component relates only to persons overseas and includes persons overseas subject to persecution who have been identified in conjunction with the UNHCR as in need of resettlement; persons in the Special Humanitarian Program who have strong support of an Australian citizen or resident; people who are subject to discrimination or human rights abuse; and finally, people at an advanced stage of processing, consisting of 900 places which the Minister has indicated will be phased out over 2000-2001.

The "onshore" component covers the people who apply for protection within Australia and who meet the refugee criteria of the United Nations High Commissioner for Refugees. This is the category which includes the TPVs with whom this paper is concerned.

On 3 April 2000, the Minister announced that the overall size and composition of the 2000-2001 Humanitarian Program (ie the combined "onshore" and "offshore" elements) would remain at 12,000 places⁹ as in the year previous. The continued linking of the "onshore" and "offshore" programs is a point of considerable tension in some ethnic communities creating competition between the two categories.

It is the CCJDP view that the "onshore" and "offshore" programs should be clearly separated to avert apparent competition which can cause some divisions as families await the long delayed arrivals of family members who are being processed by the

⁷ Department of Immigration Fact Sheet 40, *Australia's Refugee and Humanitarian Program*, updated 2 November 2000, www.immi.gov.au

⁸ UNHCR *Statistical Overview for 1988-1998*, <http://www.unhcr.ch> These figures include categories other than refugees as well.

⁹ Department of Immigration Fact Sheet 40, *Australia's Refugee and Humanitarian Program*, updated 2 November 2000, www.immi.gov.au

"offshore" program, only to find that the Minister places a freeze on the "offshore" component due to an increase in boat arrivals. We reiterate our opening comment that it is the merits of a person's case in applying for refugee status that ought to be considered, not his or her mode of arrival. The linking of the "onshore" and "offshore" places creates unnecessary tension for separated families and new arrivals who may have imperative reasons for not pursuing the "offshore" program as indicated earlier in this paper.

There is a desperate need for more education about the reasons why people are refugees and seek Australia's protection. Currently the language used often tends to blur the distinctions between those who abuse the system and those who have a genuine call on Australia's protection obligations. On the Minister's own figures, 90% of the persons who have had their cases finalised and have arrived by boat have been granted refugee status.¹⁰ This figure contradicts the impression so often made in the media that the majority of people arriving by boat are simply seeking a better life. The fact is that most of these boat people, once their cases have been tested, are found to come within the scope of persecuted people who fall within Australia's protection obligations.

4. Inhibitions on Informed Discussion.

According to the Department of Immigration 9,675 people have arrived by boat since 1989. A figure far less than the "whole villages" and "tens of thousands" predicted to be moving towards Australia's shores at Christmas 1999, according to the government's media commentary of the time. By overstating the case and appealing to a fear of "invasion from the North" the Federal government has often secured the support of the Australian Labor Party in the passage of its legislation which curtails further the rights of asylum seekers, removes legal protection and reduces levels of judicial review.¹¹

With the polls indicating that "tough" policies on new arrivals are popular and with government playing up notions of "illegals", "forum shoppers", "queue jumpers" it is

¹⁰ Hansard, House of Representatives Wednesday, 1 November 2000, p19462

¹¹ *Border Protection Legislation Amendment Act 1999*

difficult to sustain an informed public debate. This is of even more concern as we enter a Federal election year. In addition, glossing over the need for transparency about the conditions in detention centres pending determination as to whether they met the criteria as refugees is worrying. For instance:

- 1) The refusal of government, which holds wide discretion and control over every aspect of these people's lives, to allow proper independent oversight.
- 2) The restrictions on the provision of information to detainees and community access to those detainees.
- 3) The erosion, in many cases, of access to judicial reviews such as the one called for in January 2001 by the former Prime Minister Malcolm Fraser,¹² with witness protection and power to subpoena witnesses, means the experiences of the "boat people" and the reasons why they sought Australia's protection are less likely to be heard by the Australian public.

Such factors reduce the opportunities for informed discussion.

5. The Limited Rights of Temporary Protection Visa (TPV) Holders

From 1994 until a regulation change in October 1999, all refugees in Australia (including people who were considered to be "unauthorised" entrants who were found to be refugees) had entitlement to a permanent protection visa. Accordingly they had access to Australia's settlement support arrangements.

On 20 October 1999 Regulations changed the entitlements of the asylum seekers who had made an "unauthorised" entry to Australia and who were found to be refugees that is, people who had a well-founded fear of persecution. Thereafter, such persons, although Australian authorities were satisfied that they met the criteria of 'refugee', were to be entitled only to a "Temporary", not to a "Permanent", Protection Visa. Thus the Federal Government created different of refugees, with different entitlements attaching to those classes, classes otherwise indistinguishable, purely on the basis of their "authorised" or "unauthorised" mode of arrival.

The government argued that the changes were necessary because of increasing *"misuse of Australia's onshore protection arrangements by organised people-*

smuggling rackets" and *"Large numbers of people, many of whom were abandoning or ignoring existing protection arrangements (such as the "offshore program already discussed in this paper)"*¹³, *were travelling to Australia...*"¹⁴. The focus of much of the government's reaction, public documentation and media commentary on TPV holders has been deterrence rather than a recognition that the TPV holders have established their claims to be in need of protection.

The Department of Immigration was in the first week in January 2001 distributing material as a "Kit on Illegal Travel" both to the Minister for Immigration on a trip to Iran in January 2001 and to members of the Australian public. This material used TPV status and poor conditions in detention centres together with statements that Australians were resentful and unwelcoming of people seeking protection under the Convention in Australia as a deterrence tool. It stated in referring to refugees in Australia that, "they face racial hatred and violence because citizens are angry at having to support them...they lose control of their children, who abandon their traditional values for modern Western culture." In the end, the Ministers' advisers claimed the "Kit" was only a draft document. But thousands of copies had been given to the Minister for his overseas trip and someone in the Department was serious enough to commit such thoughts to paper. Apart from the rather insulting depiction of Australian citizens as racially intolerant, the question remains as to how powerful such material is even as a deterrent, given the countries the Minister was seeking to persuade. Those countries often have poorer human rights records than Australia and so are used to extreme abuses and in fact condone them. Also the target audience, namely refugees overseas, are often without homes, radio or means of communication to witness the Minister's broadcasts. Such emphasis suggests that it is tailored more for domestic political consumption than any real effect in deterring people smugglers. Furthermore, the people smugglers rarely seem concerned about the poor conditions that their passengers will experience upon arrival upon arrival, as their interest is largely monetary. It is this group who could be better targeted not those who are found to be genuine refugees on arrival.

¹² *Seeking a Better Life is No Crime, The Australian*, 29 January 2001

¹³ Words within brackets inserted by the author.

¹⁴ Department of Immigration Fact Sheet 63, *Temporary Protection Visas*, Updated 21 January 2001

It is important to note that upon a determination being made by the Australian authorities concerning each “illegal” entrant, one of two consequences necessarily follow. Those who meet the test are granted a Temporary Protection Visa. Where the asylum-seeker is found not to be a refugee they are removed under the *Migration Act* 1958 (Commonwealth) as soon as possible. There is no guarantee that the country that they left, or those countries through which they travelled, will take them back. It is critical that the assessment process be thorough and open to due process and oversight in view of the dire consequences that may follow for a claimant if the classification process wrongly concludes that the asylum-does not hold a well-founded fear of persecution.¹⁵

The duration of a temporary protection visa is only 30 months. The entitlements of a TPV holder under the regulations include the following:

- They are able to work
- They are eligible for torture and trauma counselling
- They are eligible for Special Benefit, Rent Assistance, Maternity and Family Allowances and Family Tax Payment
- They are able to gain access to Medicare Benefits upon completion of an application for permanent visa status¹⁶ with which they often need assistance from a migration agent or lawyer.

When the TPV holders are released from a detention centre, after a determination by the Department of Immigration (DIMA) as is required under the Act, DIMA provides them with information, often without the assistance of an interpreter, as to how to obtain a Medicare card, how to find treatment for medical problems and an envelope containing forms they can fill out. The view expressed by officers of the department is that their obligations to TPV holders stops immediately after a briefing - often rushed, short and confusing and, on many occasions, held after a long bus ride of up to sixty-four hours following release from a detention centre where the refugee has been held in virtual isolation, perhaps for years, with an unfamiliarity with Western bureaucracies and the filling out of forms and with a lack of English. It is reported that

¹⁵ For more discussion see *Hordes or Human Beings? – A discussion of Some of the Problems Surrounding Australia's Response to Asylum Seekers and Possible Solutions to Those Problems*, Occasional Paper Number 8, JDP, March 2000

¹⁶ Department of Immigration Fact Sheet 63, *Temporary Protection Visas*, Updated 21 January 2001

DIMA officials have stated that their responsibility stops after they have so provided information and one night's accommodation at a rooming house or, as they refer to them, "backpacker accommodation". How would an Australian manage if he or she found themselves in similar conditions in a foreign city like Islamabad?

Unlike those granted permanent protection visas (as all refugees were prior to October 1999), these refugees cannot access the settlement services provided to other refugees, such as English classes. They cannot access the mainstream social welfare system to obtain pensions or Newstart allowances, cannot bring their families to Australia, and they cannot return if they leave Australia¹⁷ all of which entitlements are available to refugees who are processed "offshore" and who are then authorised to enter Australia

6. Australia's Responsibility for Asylum Seekers

During 2000 many Commonwealth funded agencies were sent a letter by the Department of Immigration warning against assisting the TPV holders and stating that no Federal government agency was to assist them.¹⁸

The Australian Government has obligations under Chapter IV of the *Convention Relating to the Status of Refugees* in relation to housing, education, social security and relief. Australia ought to comply with this Convention, having agreed to do so by signing and ratifying the Convention.

7. Personal Experiences of the System

As the government granted TPV status it decided to release these people in groups of 17, 26 or 30 in cities around Australia, sometimes two times per week in the initial three months, with more being released in these numbers again in January 2001. The rate of releases were also a result of pressure from non-government organisations which led to DIMA putting in more resources to assess applications after long delays were experienced in the processing of asylum seeker claims. By December, the intake

¹⁷ This is causing some stress as some refugees state they are still concerned about the safety of family members who are in hiding back home or are still in refugee camps.

in Melbourne slowed as the government had indicated Melbourne was to absorb 15% but it had received 17% of the TPV holders released by then, as some 400 TPV holders had arrived in Melbourne. Sydney to date has received 40% of the TPV holders according to Centrelink data, but in the main these TPV holders were not directly released from detention centres to Sydney but have been released to other states and then travelled through to Sydney from interstate. The total number as at February in Sydney was 1,200. Whilst welcoming the release of refugees from detention centres on the eve of the arrival of the first group, the CCJDP and the Ecumenical Migration Centre of the Brotherhood of St Laurence (EMC) expressed publicly its concern that these people were being "dumped" without the necessary social supports required for their integration into the Australian community.¹⁹

The first TPV holders to arrive in large numbers came to Melbourne on the long bus ride from Woomera in South Australia on Friday 14 July 2000. The Melbourne TPV holders in this group numbered around 17 and were mainly single, young "Afghan" men. The media met the TPV holders at the Backpacker hostel in the city where they were deposited with an envelope stuffed with forms for Centrelink and Medicare. There was a lack of accurate information from the Department of Immigration to social service agencies prior to the TPV arrivals about how many were to arrive and about what levels of assistance needed to be provided. No service delivery agencies were told when the arrivals would occur, such information was only provided to ethnic community leaders. Service agencies like EMC were in attendance because the community leaders notified them. The fact that they arrived in Melbourne on a Friday also meant that it would be difficult for them to access services over a weekend to help establish themselves.

The writer received a telephone call from a concerned citizen (who asked not to be named) at 8.30am on the morning of Saturday 15 July 2000, notifying her that the TPV holders were at the "backpackers" and that no support had been organised for

¹⁸ In *The Age*, 8 February 2001 Minister Ruddock was reported as criticising the Victorian State Government for its plan to help refugees who hold TPV and stated it would be seen as a softening of Australia's stand against illegal arrivals.

¹⁹ Media Release, *Arrival of Refugees at Victoria's Backpacker Hostels An Indictment Upon How Australia Welcomes Refugees on its Shores*, Friday, 14 July 2000 of the Catholic Commission for Justice Development and Peace (Melb. Arch.) www.melb.catholic.aust.com/agency/justice.html and Media Release, 14 July 2000 *Public Support Vital to Refugee Welfare*, Ecumenical Migration Centre

them over the weekend. The citizen noted that she had tried numerous service agencies but could not reach anyone as they had either answering machines on or their mobile phones were switched off. The citizen noted that many of the TPV holders had been surprised by conditions at the backpacker hostel and were frightened off by drunks and drug users. The citizen was worried they would disperse from a central location and was concerned about what might happen to them, as many did not have much money. The writer telephoned as many agencies as she could in her address book. She rang Father Joseph Caddy at Catholic Social Services (CSS) advising of the citizen's call and of the difficulty in making contact with service delivery agencies. As we could not contact anyone we decided to meet at the backpacker hostel, noting that the reason services could not be contacted may be because the social services had already arrived. When we arrived at the backpacker hostel 16 men were gathered in the bar, the only place we could meet to discuss options with them. Father Caddy and the writer were relieved to find that Nouria Salehi from the Afghan Support Group (a member of the Justice for Asylum Seeker Alliance²⁰ of which the CCJDP is a member) had also arrived and was as equally relieved to see us.

Nouria interpreted and we learnt that some of the men had between \$2 - \$55 in their pockets (discretionary amounts given by DIMA). No-one received a Centrelink payment on arrival, as a bank account was required to access money. The payments were received ten days later. If the men had earned money whilst doing work in the detention centre they were considered to have money. Others were given \$200. One of the men spoke English; the rest spoke either very little English or none at all. They were all vexed about where they would go and what they would do in a strange city without money in the next day or so. We took a list of their names, determined whether they spoke English, their skills and where they were from so that we could follow up later, matching these with any voluntary or material assistance we could

²⁰ Members of the Justice for Asylum Seekers Alliance include: The Catholic Commission for Justice Development and Peace Melbourne, the Uniting Church in Victoria, the Afghan Support Group, the Australian Iraqi Association, the Jesuit Refugee Service, the Refugee Council of Australia, the Salvation Army, the Anglican Archdiocese of Melbourne, Asylum Seekers Project Hotham Mission, Baptist Union of Australia, Caritas Australia, the Churches of Christ, the Indo- Chinese Refugee Association, the Council of Vietnamese Supporting Organisations in Australia, the St Vincent de Paul Society Victoria, Liberty Victoria, National Council of Churches in Australia Victorian Refugee Division, the National League for Democracy (Liberated Area) Australia, Ecumenical Migration Centre of the Brotherhood of St Laurence, the Ethnic Communities Council of Victoria, the Springvale Community Aid and Advice Bureau and the Victorian Arabic Network

garner. We took the men to the park where they were provided with sandwiches. One man hugged a tree and said, "I love freedom".

After a day seeking out social service agencies to organise food and temporary accommodation for the following day and that night it became evident that there would be difficulty as many of the agencies' administration phones were on answering machine for the weekend. The CCJDP and CSS issued a press release in the late afternoon that conveyed the lack of coordination when these people initially arrived and called for assistance.²¹

²¹ Joint Media Release Sandwiches in the Treasury Garden: But it's No Picnic for Melbourne's Newest Refugees, Saturday, 15 July 2000, Catholic Social Services and Catholic Commission for Justice Development and Peace Melbourne.

"SANDWICHES IN THE TREASURY GARDENS:- BUT IT'S NO PICNIC FOR MELBOURNE'S NEWEST REFUGEES"

Father Joseph Caddy of Catholic Social Services (CSS) and Liz Curran of the Catholic Commission for Justice, Development and Peace (CCJDP, Melbourne) today spent the day with seventeen of the newly arrived refugees from Woomera.

Father Joe Caddy states, "These people are so happy to have their liberty returned and the freedom to walk around a park but they have effectively been dumped in the middle of a big foreign city with minimal English, few supports and uncertain as to their entitlements. Backpackers accommodation is inappropriate for these men seeking to make a new start in life."

Liz Curran states "These young men are bewildered. To say there is culture shock would be an understatement. The refugees were not aware of the services available to them. Some have less than \$50 in their pockets and the accommodation costs \$16 per night. They were worried about how they would afford food and shelter over the next few days. Hopefully, Centrelink support should flow through shortly."

She adds, "I am appalled that these men were not even provided with a directory of services by the Department of Immigration nor a decent map of Melbourne and the inner city suburbs where many support services are located. Thank goodness for St Vincent de Paul who have provided clothing, sandwiches and meals that's all I can say."

She states, "As we sat with the men in the Treasury Gardens eating the graciously donated lunch the men were elated at their freedom but vexed over their future in Australia. **It is beyond belief how a government with obligations it has agreed to under the *Refugee Convention* can allow such a fragmented, ad hoc, callous and uncoordinated response** to the resettlement of these men who have already been through so much trauma."

Father Joe Caddy notes, "Many of the new ethnic communities are trying their best but with few resources are finding it difficult and require further support. Social service agencies are struggling to meet the needs of homeless people and existing accommodation shortages and are uncertain of whether additional resources will be provided for these and the other refugees arriving in Victoria. The Federal government cannot be allowed to lean further on these already overstretched agencies."

"We are calling through the Churches this weekend for offers of employment, accommodation and English classes. People can contact Ecumenical Migration Centre on 9416 0044 if they can assist. The men we met today are healthy, young willing workers and employers would be guaranteed a good days work from them.

Without their knowledge at the time, but with consent following on Saturday evening, Father Caddy and the writer used the phone number of the Ecumenical Migration Centre at the Brotherhood of St Laurence as a contact number for coordination purposes on the press release as they were the best placed organisation to use at short notice. They were also members of Justice for Asylum Seekers who had a good solid record of working with refugees and we wanted to avert the ad hoc, chaotic, and piecemeal nature of assistance rendered to the TPV holders on the Saturday.

Since this time, the Ecumenical Migration Centre (EMC) has had a central coordination role in ensuring the TPV holders are assisted and linked to services despite receiving minimal resources and much criticism. Many departmental officials maintain EMC should merely provide a service and desist from also advocating for the human rights of asylum seekers. It should be noted that organisations such as EMC are not just agents of government but one of their main reasons for existence is their role and mission in advocating for those who are disadvantaged in our community and in ensuring that public policy outcomes can be improved. The CCJDP views the role of EMC in recent months as pivotal in securing help for the refugees but also in raising greater understanding in the community about the experiences of these people and the complexities around the situation of refugees.

The Ecumenical Migration Centre mobilized on Sunday 16 July 2000, and with assistance from the relatively new, little resourced and largely social committee the Afghan Support Group and some generous help from the Iraqi community, some small steps were taken to help the first TPV holders in Melbourne. Thanks to a family who lived near a Mosque in Preston and the Uniting Church who had a vacant residential block which was closed as it was to be painted, accommodation was secured though some refugees had to remain at the hostel another night.

Within a matter of weeks offers of material aid came in, volunteers helped on reception and in processing the refugees, and lawyers offered to help after hours so that the TPV holders could fill out their permanent visa applications which they

Our appeal to the Churches in no way absolves the whole community as represented by government, from its responsibility of assisting these vulnerable strangers in our midst.”

needed to complete before they could access Medicare. Offers of assistance flowed in from Church congregations, community organisations such as St Vincent de Paul, the Uniting Church and the Salvation Army. Members of the public who had heard the writer on radio expressing her concerns offered material aid and accommodation. One man rang to say that he shared a house in Northcote with his 14-year-old son and would be happy to offer shelter and support to some of the new arrivals. All offers of help were directed to the EMC. All the time the Minister for Immigration or his Deputy was claiming that Australians did not want these people. The irony was that the comments from the government were in direct contradiction to the community support that was forthcoming.

Over the course of the following months, regional support hubs were established through places like Darebin Council. In the southern suburbs, EMC worked with local councils in Yarra, Darebin and others, religious organisations, volunteers, the transitional housing service, material aid services, community health and other peak organisations like Foundation for Survivors of Trauma and Torture and with various cultural and linguistic groups to provide a minimal crisis-on-arrival settlement service. The work in trying to provide a coordinated service was continually frustrated through the Federal Government actively positioning one ethnic group against another. Many ethnic groups understandably have their own tensions. One is that family members waiting for clearance in "offshore programs" feel exasperated and frustrated by problems caused by the linking of those numbers of intake with "onshore refugees" as discussed earlier. Thus when the Minister for Immigration froze the "offshore" arrivals allegedly due to the numbers of "boat people" it made things difficult. In many of these cases communication and understanding has been critical in ensuring cooperation and dialogue.

The TPV holders would be met at the DIMA designated reception place, often a Church or a hired local community hall. DIMA would give an information session about the forms, and the EMC would open case files for each refugee. This ensured the delivery of mail and the availability of contact information for what is a very transient population. They would also assist in the coordination of appointments for health consultations, take children to enrol in schools, assist public health to find

people who needed to follow up “health undertakings”, set up bank accounts for Centrelink payments and advise social service agencies of their material needs ranging from furniture through to blankets and food. Two groups of TPV holders would arrive per week from July 2000 – December 2000, and from January 2001 three groups would arrive sometimes with odd times of arrival at the destination such as at 5:20am.

One of the critical elements in meeting the needs of the TPV holders was in tracking them so that they could be contacted for their many appointments or if they were required for appointments with Centrelink. Many TPV holders were being housed together in large numbers due to the shortages in accommodation and there were delays and costs in connecting a telephone. It was suggested by the service agencies that one way of notifying the TPV holders of appointments would be if they were to secure a mobile phone by pooling any money that they had so that they could always be contacted and could alert each other as to appointments. In addition, if any were to leave their accommodation they were to notify EMC so that they could be tracked if needed.

EMC had convened meetings of key material aid providers to avoid duplication and ensure proper processes and coordination between ethnic group volunteers and agencies. The lack of information provided by DIMA meant that EMC was unable to provide the names of the recipients of material aid. As all the non-government organisations, local councils and volunteers worked tirelessly to help the two or so shipments of TPV groups in Melbourne per week, struggling with the work load and the frustration, the Minister for Immigration was heard on ABC Radio National's World Today²² on two separate occasions claiming that TPV holders were "double dipping", thus implying the TPV holders were being fraudulent and abusing the system. This allegation was made through a number of media outlets and, without the large public relations resources of DIMA, could only be rebutted in a small number of media outlets. However, there are no "one-stop shops" which meet all the needs of the TPV holders at once. The TPV holders have had to secure assistance from a number of outlets as best they can. For instance, the Salvation Army could only provide blankets, St Vincent de Paul provided clothing and transitional housing, local councils

provided emergency housing while the Foundation for Torture and Trauma provided counselling. A human being has many needs: these include being fed, housed, clothed and so on. This is what the Minister was referring to as "double dipping", as TPV holders were listed as accessing more than one service.

A second allegation was that they were spending their money on mobile phones, thus fuelling the image that the refugees had money and were able to afford luxury goods over subsistence items. As noted above, the reasons for the purchase of mobile phones were far more practical. The ramifications of such accusations are that they can cause resentment and anger in Australia towards the new arrivals and a perception that new arrivals are deceitful, have access to services and are receiving more entitlements than they ought. This is far from the truth.

In late July 2000, after many petitions to the State Government in Victoria by the CCJDP, Justice for Asylum Seekers, the Heads of Churches in Victoria and EMC for assistance with funding, in coordination, information provision and educating the children of the TPV holders and so on, the State Government announced that it would provide limited assistance and directed its departments to also offer assistance. \$40,000 was allocated to EMC to provide short-term emergency assistance for coordination of a Statewide response as many TPV holders were settling also in rural Victoria. Basic systems were put in place by EMC so TPV holders were able to receive mail from Centrelink and set up accounts to access payments, identify urgent health requirements and organise medical appointments, and to address material aid needs. These basic systems were put in place not to replace the settlement services systems of DIMA but to ensure help was given and contact points established. In a letter the Heads of Churches in Victoria on 15 August 2000 made a united plea to the Prime Minister "to provide full access to supports provided to other refugees in Australia" and to cease making comments which "are unhelpful and merely serve to increase divisions and stigmatise the refugees who have already been through significant levels of victimisation and persecution in their homelands."

In some other States such as South Australia, the State Governments also offered assistance and these initiatives went across political boundaries. Queensland and

²² Wednesday 9 August, 2000, *The World Today*, www.abc.net.au/worldtoday/s161170.html

South Australia have managed, along with Victoria, to garner non-government organisations and State government support to assist TPV holders. Some States have done less and could do more. As the care of refugees is a Commonwealth responsibility the measures by Victoria and South Australia were welcome but also brave. The Federal Government had already stated that if State Governments were to help the TPV holders they would be actively detracting from the Federal Government's deterrence policies. In addition, the State Governments took the dangerous step in setting a precedent, which let the Federal Government (which is the sphere of government that raises income tax and therefore has the resources) 'off the hook'. The State Government in Victoria noted that the difficulty was that the TPV holders were now in Victoria, were human beings and could be the victims of a Commonwealth retreat - hence were providing assistance.

It is critical, in view of the complexities of issues surrounding TPV holders, that the allocation of money and the realities of the TPV holders and what their needs are should inform areas where assistance is rendered. This is discussed in the Conclusion to this paper. It is unfortunate that TPV holders are not a part of the Commonwealth's settlement services that have been worked out through long years of experience and knowledge and have been tailored to meet the specific needs of the groups.

The provision of State assistance led to information from DIMA being emailed, prior to TPV arrivals, to the State government, agencies and local councils working on the ground so that, often with little, but at least some notice, accommodation could be found and services linked to the needs of the various groups. DIMA also tried to circumvent agencies (other than Foundation House) by dealing exclusively with ethnic community leaders who had few resources to find housing and material need. To illustrate the inadequacy of information provided by DIMA to people expected to assist those arriving by bus, below is an extract from an Email that the Department of Community Services circulated on 30 January 2001:

"At 13.30 on Monday 5 February 2001, 30 TPV holders will arrive in Melbourne from Curtin and Port Hedland.

This group will be received at the Holy Eucharist Catholic Church Hall at Oleander Drive St Albans. All related processing will occur at the hall. They

will then be transported to arranged accommodation. NO accommodation has been confirmed by community organisations as yet. The New Terrace Inn is currently full and cannot take any new residents.

Composition of the TPV holders

Total Number 30

Ethnicities:

23 Hazars

6 Iraqis

Females – 5 (2 Iraqi, 2 Afghans, 1 Iranian

Males 25 (21 Afghan, 4 Iraqi)

Unaccompanied Minors 2 (Afghan male)

Health Undertakings 3

Families: 2 – 1 Afghan – husband wife and a 9 year old daughter; 1 Iraqi – Father, grandmother and 2 children - a 16 year old girl and a 14 year old boy.

Singles: 20 Afghans (males) and 2 Iraqi (males), 1 Iranian female"

In some instances this information has been incorrect and the ethnicities have been wrong. This may cause difficulty when limited accommodation has been secured in one room for five Iraqi men and it turns out that two of them are Iranian.

In addition, the State Government's involvement meant that various departments (for instance, health, housing and education) were all involved and, subject to some communication problems, as a result assistance to TPV holders became increasingly better coordinated and accessible. Very basic levels of co-ordination were implemented but more were needed. Mechanisms and protocols were instituted to ensure TPV holders had basic levels of assistance and, critically, were linked into their (limited) entitlements. One of the initial problems was that although the TPV holders did have some limited entitlements, they did not often have the capacity to access them as they do not understand the system and how to access it, were confused, did not have assistance in filling in the requisite forms in a foreign language and so on.

On 6 February 2001, after the drying up of resources and the emergence of a situation that looked as if TPV holders would be placed back in circumstances like those of

July 2000, the State Government made a further one off grant of \$100,000.²³ Whilst acknowledging that this would not be enough, the Minister for Community Services is reported in *The Age* as stating that the State, community groups and local governments have spent \$625,000 on TPVs whilst the Federal Government saved \$5 million. This is an area of Federal Government responsibility.

8. How Are the TPV Holders Coping?

At the end of October 2000, a total of 480 TPV holders had arrived in Melbourne. Over January and February 2001 a further 200 TPV holders were expected to arrive in Victoria. The majority (246 people) arrived in August 2000. Of the arrivals 74% were men, many of whom were quite young, 13% were young people under 18 years of age, 5% were unattached minors (meaning children without parents). 86 TPV holders were less than 18 years of age at the end of October 2000. It is important to note that not only have these young people often spent a significant time in detention but also have undertaken perilous journeys and so their educational and personal needs are substantial. 8% of the TPV holders in Melbourne were women.

Of the TPV holders, 290 were Iraqi and 177 were Afghan. It is important to note that these two regions have significant political turmoil and displacement of citizens. In recent months, however, an increased number of women and children have been arriving as TPV holders. This may be a reaction by DIMA to the negative media attention in late November 2000 around the conditions in detention centres and allegations of abuse both by detainees and management²⁴, and the call by Grant Mitchell (who has worked in Sweden) and members of the Justice for Asylum Seeker Alliance for consideration of the release model in Sweden.

The TPV holders live in considerable uncertainty about their future. Because a temporary protection visa is limited to 30 months (despite the holder having established a need for protection under the COR), it makes it difficult for these holders to achieve security and stability. Many people are stressed as they find it difficult to establish whether family members are alive, even though the Red Cross

²³ The Age, 7 February 2001, p7

²⁴ The Sunday Age, 10 December 2000, The Australian 21-24 November, 2000

provides tracing services. In contrast to the equally needy “offshore” refugees, they are denied family reunion rights for two years and it may possibly take 3-7 years before they are re-united. The denial of travel rights has caused significant psychological stress for many who have a natural concern for the plight of the loved ones left behind.

TPV householders who are in accommodation are uncertain as to how long they can remain. The housing is not always suitable especially when there are young children but is often the best available in light of accommodation shortages. Questions have been raised about the standard of care, level of educational access and supervision of unaccompanied minors who are held in DIMA facilities as they remain under guardianship of the Commonwealth. There appears to be no independent oversight as to whether their needs are being met, and the public are expected to accept the “say so” of the Department without being able to test their statements.

TPV holders live below the poverty line as a result of arriving homeless, friendless and without any possessions ranging from clothes, through to prams, heaters, saucepans and so on. Some of the TPV holders are experiencing trauma as a result of being detained during the determination process. This ranges from nightmares to fear of going outside after being held inside for so long. There was a three-month exemption period for TPV holders from the mutual obligations required by the Federal Government through Centrelink. This has lifted the hope for some TPV holders in finding a job. However, writing 10 letters of application per fortnight for a job as part of the governments so called “mutual obligation” requirement is difficult when you have no English, have no entitlements to English lessons, have insecurity as to whether you will have a place to sleep from day to day and are struggling to survive in a very foreign land.

Anecdotal evidence suggests that some TPV holders were told prior to their release from detention that they should not voice criticisms about their experiences in detention centres or about their treatment upon release as it would jeopardize their chances of securing permanent visas. The TPV holders were misinformed about this, but were intimidated against speaking out as they have very little understanding of their legal or other entitlements in Australia and they tend to believe figures in

authority. In their own countries (often dictatorships or totalitarian regimes) governments often have significant powers of reprisal. Many TPV holders have commented that they thought Australians were hard and unfeeling, as their only experience was of persons they had contact with in detention who often told them they were not wanted. On being freed they were amazed at the generosity and kindness they experienced. In fact in the first months of the TPV release, many would go to EMC and sit in the foyer just to see familiar friendly faces, to socialize and to receive a smile.

In the community sector, in sections of the Victorian public service and amongst Council workers, there is a level of fatigue, as the arrival of many more TPV holders is anticipated. The TPV crisis has led to many resources being drained and other priority areas where communities have needs not being reached. The concern is that this is potentially setting a scene for one group being set against another, including ethnic groups. Networks are already stretched because they are dealing with high numbers of homeless, mentally ill, working poor and drug-addicted people. There is a need for community-based partnerships, proper resourcing and opportunities for people to talk and express concerns, identify gaps and find ways of dealing with them which is difficult when one is in crisis response mode.

There is a repeated call amongst the Justice for Asylum Seekers Alliance for a central point for TPV information, advice and referral, and a planned strategic response that goes beyond the current crisis response. Concern was raised that some within the Department of Community Services felt that now TPV holders had been here since July they could access Department services already in place. But many TPV holders are still arriving after a long time in detention with little English language and face issues of trauma and health care. Hopefully, after having the situation explained, the Department has realised the very complex needs new arrivals can have.

On Friday 2 February 2001 Justice for Asylum Seekers was notified that TPV arrivals from Sunday 28 January who were being housed in a rooming house/backpackers' hostel in Preston were about to be evicted since they had run out of money and space had to be made open to accommodate other arrivals. This group had been told to give the backpackers' hostel as their address on their Centrelink forms and there was

concern that if they were forced to leave the backpacker accommodation they would disperse and not be able to access services. We needed to secure accommodation for them until at least Monday so that we could link them into services, especially families with young children. Fortunately, thanks to the financial assistance of a concerned member of the public, their accommodation was paid until Monday when arrangements could be put in place although this would be hectic as a number of new TPV arrivals were expected on 5 February 2001.

So the situation for TPV holders still remains uncertain.

9. A Brief Note on the Forgotten People – On-Shore Asylum Seekers in the Community

A separate group to the TPV holders that often does not receive attention is on-shore asylum-seekers. These can be either undocumented arrivals who arrive by boat, or those who arrive with valid visas that are cleared by immigration, but then choose to seek asylum. Chinese students following Tiananmin Square or the East Timorese would be examples of the latter instance of seeking asylum. The Asylum Seeker Project that is run jointly by Hotham Mission and the Seddon Congregation of the Uniting Church and has been in operation for five years providing emergency accommodation, support and relief to asylum-seekers in the community is very concerned about the plight of these asylum-seekers.

On-shore asylum seekers in the community, which include men and women, usually do not have work rights, Medicare entitlements or any entitlements to the Asylum Seeker Assistance Scheme (ASAS) or housing and welfare support. Some in this group include mothers who have lost their husbands and have to support small children. 30-50% of the clients at the Asylum Seeker Project has been homeless, having to live in parks, on Mosque floors or in the streets. Many are suffering from post-traumatic stress disorder or torture and have arrived in Australia confused about what they are to do. This means they often miss out on the “45-day rule”, a provision which confers work rights provided they apply within 45 days of arrival on Australian shores. When they come to the notice of a service agency and successfully gain a bridging visa, the majority complies with all the restrictions despite the difficulties of

often having no home or money. If they need medical attention, they have to find a doctor who will provide the service to them for free. This is difficult as many in this group have suffered from torture and trauma and, although eligible for initial counselling from the Foundation for the Survivors of Torture, there is a waiting list of some six months. The Red Cross sees between 10-80 of these asylum seekers per week. At any one time there are 100-130 waiting.

Some Recommendations:

1. The Red Cross receives funding for their work with this group. More funding is needed in their work providing housing, health needs and food. The right of every human being to food, housing and health needs and subsistence is contained in the United Nations Covenant on Economic, Social and Cultural Rights to which Australia is a signatory.
2. The Federal Government should remove the 45-day rule and allow for exceptions to be made for work rights for those asylum seekers not coping and on the verge of homelessness. It is important to note that the Federal Government has stated on many occasions that it is committed to a national strategy on homelessness.
3. The rules for granting exemptions to ASAS for the young, those not coping and those who suffer depression or mental illness should be eased.

10. Measures Which Would Assist

There are many ways in which the situation for TPV holders could be improved.

These include:

- 1.** Primarily, as indicated in this paper, if an asylum seeker is found to have a well founded fear of persecution and comes within the international United Nations Conventions he or she should be treated as entitled to full refugee rights, irrespective of his or her mode of entry into Australia.
- 2.** The Federal government should cease making statements that demonise and mislead the Australian public about asylum seekers. It has a responsibility to lead and ensure community cohesion rather than community division.

- 3.** The Federal Government should not use the abuse of process by a small number of asylum seekers or by people smugglers to deny due process to the rest of asylum seekers who upon being able to put their case fully may prove they are entitled to Australia's protection because of the dangers in their country.
- 4.** There should be an examination of methods to address people smuggling operatives and leaders rather than the desperate refugees who use their services.
- 5.** A central point for TPV holder information, advice and referral and a planned strategic response is needed, extending beyond the current crisis response.
- 6.** There should be opportunities for forums where people in the field can discuss and raise issues and follow up ideas for resolution.
- 7.** More consultation with non-government organisations and interest groups is needed. An open dialogue is vital in ensuring future policy development is in line with the needs of the community.

These activities are not primarily the responsibility of State Government but are rightly vested in the Federal Government. The States, including Victoria, may be keen to pursue them themselves or to urge that the Commonwealth Government does so.

- 8.** Statewide and national co-ordination and strategic planning
- 9.** Development of key initiatives related to income security for TPV holders
- 10.** Establishing a TPV holder advice and referral service
- 11.** Additional capacity building and resourcing of mainstream services and communities to deal effectively with refugee needs eg Guidelines and Referral Procedures for recently Arrived Communities
- 12.** A non-ethnic-specific team approach that does not assume, given the complexities, that settlement planning can be based on ethnicity and religion
- 13.** A strengthened and well supported community volunteers base drawn from across the Australian community
- 14.** Support for affected community organisations
- 15.** The building of community support and awareness of issues around the experiences of TPV holders
- 16.** Research into TPV refugee issues together with informed and responsive policy advice.
- 17.** Social Workers for complex case work and referral

- 18.** State wide community workers and communication opportunities for debriefing.

11. CONCLUSION AND POSTSCRIPT

At the time of writing this paper (February 2001), the State Government of Victoria is due to make an announcement about providing further "one-off" funding for TPV holders in Victoria. It is likely on current information that the money will be provided in regions. This approach may present difficulties and it is unfortunate that more communication with the non-government agencies and working on the ground has not occurred. Often efforts by these groups to communicate with government have been seen as "lobbying" where what is occurring is an attempt to inform government of what is happening in the practical areas of relationships, service delivery and gaps.

Strategic, centrally coordinated approaches are needed. It is important that it is recognised that this is a worldwide phenomenon. Communication and cooperation between the government, non-government sector and the voluntary sector who have extended themselves admirably over the past years will be critical if policy approaches and successful integration of refugees are to succeed. It is hoped that the contents of this paper will assist in informing policy makers and program providers in how money ought to be allocated, ensuring that the current gaps in service delivery are met, appropriate housing is made available, educational opportunities for the children and young people are provided, and refugees can access the necessary language and life skills to manage life in Australia.

It is acknowledged that the responsibility for refugees lies with the Commonwealth Government and that around Australia, in varying degrees, State Governments have had to step in to fill the breach created by the Federal Government's refusal to take greater responsibility for refugees on our shores. In discussions with the Refugee Council over the past eight months, different States have handled the TPV holder arrivals with different levels of State Government involvement, which has meant variations in the expectations placed on the voluntary and non-government sector and differing success in coordination and tracking of TPV holders to ensure they are properly assisted and have their needs followed up.

Whilst this paper has concentrated largely on the direct experience of the writer in relation to the Victorian response to TPV arrivals, it is understood from discussions with non-government counterparts in other States that although there are some variations similar experiences in relation to gaps in service, trauma of TPV holders who are confused and often frightened but wanting to contribute to Australian society resound as experiences in their State. It is therefore hoped that the contents of this paper may assist the other main States, New South Wales, South Australia, Western Australia and Queensland who have been receiving the steady flow of TPV holders from the detention centres.

It is also hoped that members of the Australian community will find this paper informative and gain greater understanding of the issues around the experiences of Australia's new arrivals, transcending a lot of the rhetoric in the mainstream media that has often overlooked the human side of the issue.

Despite the Federal Government's recalcitrance the fact remains that when the TPV holders arrive on Australian shores they are Australia's concern. When they arrive in capital cities after release from detention centres with minimal Federal Government assistance they become the responsibility of the State in which they are deposited by the Federal government. For if they do not receive State assistance, they will be the future homeless, dejected and marginalised members of Australia's population. This appears an unfair disposition in view of the persecution, deprivation, torture, trauma, dislocation, and family separation they have already suffered or have had to leave their homes to escape.

Great care is needed, as outlined in this paper, to ensure that TPV holders are not either under-managed or unmanaged. Many have health needs, torture and trauma issues with which they may need assistance in resolving. There is an unfortunate, simplistic and world situation naivete in the tendency to lump ethnically different groups together as one nationality which is homogenous with assumptions that people from one country are all the same or have the same needs. In many cases ethnic, cultural, political, religious differences within the one country have led to persecution in the first instance that have forced the refugee to flee. In Australia today there is an

understanding that it is inappropriate to expect the Turkish Community to be responsible for the support of Kurdish people, as there is an awareness that such a response would not work. Nevertheless, currently the Hazar, a minority group of Mongolian Chinese background (although this is a simplistic description in itself) are expected to be supported by the Afghan community, with little recognition that they are different from them and are being ethnically cleansed by the Taliban.

These examples are intended to highlight the need for the Governments, their bureaucracies, service delivery agencies, policy makers and persons who make allocations of money, to understand the complex nature of issues for refugees and asylum-seekers and be informed, not just by theories or bureaucratically removed responses, but by the experiences of those working on the ground who have an understanding of the complex needs and the sensitivities that need to be negotiated. To assume that these groups involved in assisting asylum-seekers only want to meet with governments to lobby rather than inform and propose improvements on policy responses is defensive, ill informed and contrary to participatory democracy. All groups should be listened to and heard in the interests of reaching solutions that better reflect the complexities mentioned so often in this paper.

Under Chapter V, Section 51 (xxxvii) of the *Constitution of Australia*²⁵ the Federal Parliament is vested with the exclusive power to make laws for the peace, order and good government of Australia with respect to immigration, aliens and nationality. The framework governing the entry by non-citizens who wish to stay in Australia either temporarily or permanently is contained within the *Migration Act*²⁶ along with the *Migration Regulations* 1994 (Commonwealth). However the Act is not a specific enactment implementing the COR. The Act and Regulations confer extensive powers on the Minister for Immigration and his Department.

²⁵ *Commonwealth of Australia Constitution Act* 1901

²⁶ It is noted that the legislative history of the Act in relation to detention of asylum seekers was not so much about the legitimate aim of limiting illegal entry into Australia but rather of deterring asylum seekers. Mr Hand MP, House of Representatives, Hansard, 5 May 1992, P. Mathew, *Implementing Australia's International Obligations Towards Refugees, Agenda*, Volume 3, Number 4, 1996, 471, at 475. A review of the Minister's press statements from September 1999 until December 1999 reveals a similar consideration in relation to the *Border Protection Legislation Amendment Act* 1999 that received bipartisan support in the Parliament from the government and Opposition parties.

It is appropriate in view of these powers vested in the Commonwealth and its established settlement programs with the benefit of experience, formulated policy responses, protocols, and resources that the Commonwealth take up its responsibility in the settlement of TPV holders. Having already established that the TPV holders merit Australia's protection, it is likely, unless the Federal Government decides to be more stringent in granting permanent residency for TPV holders in the future, that the TPV holders will in most cases remain permanently in Australia.

By neglecting the TPV holders, the Federal Government is risking long term problems. Much of the material emerging from the Federal Department of Family and Community Services has argued that there are long-term benefits and economic savings in the provision of early intervention, support and prevention of problems.²⁷ Yet this stated knowledge does not flow through to other Federal government agencies so as to have an impact upon the refugee and humanitarian policies under discussion. The hallowed policy of promoting family values appears to also ring hollow. TPV holders worry whilst in detention about how family members are faring in other detention centres, under increasingly questioned conditions. Long periods "incommunicado" in detention mean family members are assumed dead. Australian research by Professor McGoory at the University of Melbourne has shown that the long-term impacts of trauma created by the conflict and persecution in their homelands can be compounded by long periods in detention for women, men and children.²⁸

Experience shows that the full and proper integration of new arrivals at an early stage ensures a smoother settling-in period and activates citizen participation at an early stage. The Federal government's policies fail to recognise this in an over-emphasis on deterrence, at the cost of a much-needed humanitarian, and indeed a compassionate, response to TPV holders.

²⁷ Department of Family and Community Services, *Stronger Families and Communities Strategy*, Community Guide, 8 December 2000

²⁸ *Problems Tamil Asylum Seekers Encounter in Accessing Health and Welfare Services in Australia*, Silove D, Steel Z, McGorry P, Drobny J, *Social Science and Medicine Journal*, Volume 49, Pages 51-56, 1999; *Pathways From War Trauma to Post Traumatic Stress Symptoms Amongst Tamil Asylum Seekers, Refugees and Immigrant*, Soon to be published in the *Journal of Traumatic Stress*.

This paper was written by Liz Curran the Executive Officer of the Catholic Commission for Justice Development and Peace Melbourne.

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