

Go Away: Punished Not Protected

*Temporary Protection Visa Holders' Powerlessness,
Federal Politicians' Indifference*

**Researched and written by The Center for Peace and Conflict Studies
with support from Show Mercy – Rights for Asylum Seekers
Published January 2003**

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SUMMARY

Go Away: Punished Not Protected *Temporary Protection Visa Holders' Powerlessness, Federal Politicians' Indifference*

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A research inquiry into the attitudes of Federal politicians regarding the plight of 9000 temporary protection visa holders concludes that the ignorance and indifference of a substantial proportion of elected members is best expressed by the observation '*Go Away*' - and by comments such as 'this is not a constituency matter', 'I have passed it on', 'our policies are fair and just'.

(1) Politicians' accountability: The difficulty of holding politicians accountable for the plight of TPV holders compounds the powerlessness of already vulnerable people. Coalition members in particular behave as though the predicament of such residents in Australia is not their concern.

(2) Ministerial cruelty: The constant and cruel inflexibility exhibited by Immigration Minister Ruddock is sustained because other elected members seldom hold him accountable for his attitudes and policies

(3) Humanity of some members: Significant exceptions to this picture of politicians' indifference were apparent in the expressed wishes of representatives of the minor parties and by a handful of Labor members who want to improve dramatically the living conditions of TPV holders.

(4) Punishment not protection: The lives of temporary protection visa holders are characterized by an experience of being punished not protected, by a constant fear of being deported and by a feeling of being pawns in the hands of an indifferent country.

(5) Financial and other costs: A policy of punishing TPV holders not protecting them is apparent in their poverty -level financial existence coupled to their being denied services in health, housing and education. State Governments have made laudable efforts to fill the gaps left by the Federal Government's denial of services.

(6) Tribunal Injustice: The Refugee Review Tribunal amounts to a charade of powerful individuals acting in deference to DIMIA officials who insist that the reassessment process for TPV holders is a legal matter which has nothing to do with humanitarian considerations. Only the participation of NGO representatives will make this process less arbitrary and more just.

(7) Abolish Temporary Protection Visas: The main recommendation of this '*Go Away*' report is that on humanitarian and legal grounds Temporary Protection Visas should be replaced by a system of awarding Permanent Protection on recognition of refugee status.

The Powerlessness of Temporary Protection Visa Holders: The Attitudes of Federal Politicians

**Researched and written by The Center for Peace and Conflict Studies with support
from Show Mercy – Rights for Asylum Seekers – January 2003**

A distinction is evident between official claims about Australia's Temporary Protection Visa (TPV) Policy and the way in which it is administered. Theoretically, three-year protection has been granted to provide safety and security for individuals. Practically, this protection is a misnomer. Security is far from a reality. The impending threat of forced return, inability to unite with family members, limited access to resources and employment, gives temporary protection visa holders an experience of rejection and punishment.

This report illustrates the powerlessness of approximately 9,000 temporary protection visa holders who are living in Australia. The Report is in six parts.

Part I depicts the attitudes of Federal politicians to temporary protection visa holders and to the prospects of changing current policies. This part of the research is placed first because it illustrates perhaps the most formidable obstacles to be overcome if Australia is to meet its UN obligations and to act with more generosity towards prospective refugees.

Part II gives a sketch of the biographies of TPV holders.

Part III identifies aspects of the costs of living on a temporary protection visa.

Part IV sketches the attitudes of senior staff in the Department of Immigration, Multicultural and Indigenous Affairs.

Part V maps the processes involved in having an application for refugee status reassessed.

Part VI discusses the humanitarian implications of current policies and practices.

The research was conducted in the latter months of 2002 by four representatives of Show Mercy - Rights for Asylum Seekers. These four research interviewers used Sydney University's Centre for Peace & Conflict Studies as a base to launch a letter writing campaign concerning the treatment of temporary protection visa holders in Australia. The Adopt-A-Politician Campaign involved dispatching a series of letters to all parliamentarians in Canberra, highlighting the human rights abuses of Australia's TPV holders and politicians lack of courage in acknowledging and addressing the issue. The researchers were aided by a team of 38 volunteers – approximately six politicians to every volunteer - who dispatched the letters, collated responses, and followed up any non-responses with telephone calls.

The four researchers interviewed asylum seekers, representatives of DIMIA, lawyers and NGO staff involved in supporting temporary protection visa holders. The first hand data conveyed in this report comes largely from such interviews and correspondence with politicians. Other data is a summary of research reports that aim to present a coherent picture of the constraints in the lives of temporary protection visa holders. The sources of this research are listed in references at the end of this report.

Part I: The attitudes of politicians to temporary protection visa holders.

'Go Away' conveys the Australian Government's attitude towards asylum seekers who hold temporary protection visas (TPV's). When researchers sought the views of Federal politicians about the predicament of TPV holders, this 'go away' attitude became even more apparent. Federal politicians displayed their local, even their parochial, orientation to their responsibilities for vulnerable people. With significant exceptions, Federal politicians were unable or unwilling to consider the international dimensions of refugees on the move, the despair of such people and the need for elected members to be informed, compassionate and accountable. The indifference of so many Coalition members to a series of direct questions about TPV holders demonstrates the difficulty in holding them accountable for the consequences of such policies. This difficulty is compounded if they remain inaccessible in Canberra, or in remote constituency offices and if the Coalition and the Opposition Labor Party persist with a largely bi partisan refugee policy.

To determine the attitudes of Federal politicians towards asylum seekers who hold temporary protection visas, letters were sent by the researchers over the four month period, August to November 2002.(See Appendix) At monthly intervals three letters were sent to all Federal politicians. Each letter contained the bold heading 'The Powerlessness of Temporary Protection Visa Holders' followed by reference to the specific issue on which the researchers sought a response. The specific issues in the respective three letters concerned 'the need for a touch of courage' in order to reflect the country's reputation for fairness, 'Australia's Human Rights Obligations' under the covenants to which Australia is a signatory and the 'financial and psychological costs of present policies'. A little less than a third of parliamentarians responded to the letters. This low response indicates not only the problems of conducting such research but it also illustrates the very real difficulties faced by vulnerable people when trying to have their voices heard by powerful individuals.

Sixty one (27%) Federal politicians replied to at least one of the three letters. Of these respondents, thirty (49%) were Coalition or government members, twenty two (36% of respondents) were from the Labor Party and the remaining nine (15%) were from the minor parties the Democrats, the Greens and Independents. However, the response rate from the representatives of the minor parties and Independents was almost 100%, in contrast to the interest shown by members of the major parties

The majority of replies, many of which were evasive and indifferent, came from members of the Coalition. A proportion of replies from Labor members said that their party was rethinking its policies and they could therefore only 'sit on the fence' with regards to this issue. Responses which were supportive of asylum seekers and which spoke of opposition to current government policies came from representatives of the minor parties and from a handful of Labor members. (Diagram 1.1).

Diagram 1.1 Federal Politicians’ attitudes towards the powerlessness of temporary protection visa holders.

Attitudes	Examples of statements	Political allegiances	No.+ % of responses
Negative	You are not in my constituency	Liberal & National	
“	This is not my responsibility	Liberal, National & Labor	
“	We have no comment	Liberal, National, Labor & Independents	
“	Current policies are fair and justified	Liberal & National	(35) 57%
Ambiguous	We are re-examining our policies	Labor & CL	(12) 20%
Supportive	We are trying to change these policies	Democrats, Greens, Independents	
“	We advocate the abolition of temporary protection visas	and some Labor and Liberal members	(14) 23%

The largest common response was **“You’re not in my Constituency”**. This reply was given over the phone. These politicians showed little capacity to think globally. To these respondents, the issue of TPV holders lacked priority over matters directly affecting individual constituencies. Politicians’ disinterest in global issues was conveyed in statements such as, ‘I will only treat you seriously if you live in my constituency’. A cosmopolitan outlook which says ‘I am concerned with general humanitarian issues’ (irrespective of whether people live in my constituency) is needed when dealing with controversies about refugees.

‘Not My Responsibility’ responses came mostly from the Coalition politicians. The content of these responses was smaller than the MP’s letterhead, and stated that the researcher’s letter had been forwarded to the Department of Immigration, Multicultural and Indigenous Affairs. A letter written on behalf of Alexander Downer said “As the issue you have raised falls within the portfolio of the Minister for Immigration, Multicultural and Indigenous Affairs, the Hon Phillip Ruddock, your letter has been passed to him for consideration”.

‘No Comment’ responses acknowledge the receipt of a letter but little else. They offered no comment or opinion. For example, a letter on behalf of the Hon Tony Abbott said “Mr Abbott has noted your concerns and has asked me to thank you for bringing your views on these matters to his attention”.

The above two categories are a reply, but not a response. The politicians have not considered the issues raised. They refuse to comment. They have merely shifted the responsibility, or ‘passed the buck’ to the Department of Immigration, Multicultural and Indigenous Affairs. Such responses show no sense of accountability towards Temporary Protection Visa Holders.

'The Government's Policy is fine, we are fair and just' is a small negative category. All these responses came from the Coalition. These letters support the current Government's refugee policies and used the same rhetoric. A letter from Bronwyn Bishop used phrases such as "queue jumping" and "illegal entrants". The overall message from these respondents was that they believe the Government's policy is fair and just. They see no need for change. Ken Ticehurst, Federal Member for Dobell, said "Australia has a sound immigration policy underpinned by some essential core values". Bob Baldwin of the Liberal Party claimed "They're not real refugees anyway", "They must be 'cashed up' to pay for people smugglers" and "There is no alternative to mandatory detention".

'Ambiguous Replies' came from the ALP. They outlined the Party's stance on the issue and covered three main topics:

1. The humanitarian concerns that were raised in the research letters. Julia Irwin, Federal Member for Fowler wrote "Government restrictions on support programs and the uncertainty of the status of TPV holders are not helpful". Lindsay Tanner, Federal Member for Melbourne wrote "Labor is fully aware of lack of access to services".
2. Labor's stance on the problem of forbidding family reunion, "Labor is fully aware that the lack of family union and certainty of status, coupled with the lack of access to language classes and the Job Network is leading to welfare dependency and despondency amongst TPV holders".
3. Revising Australia's current refugee policy. All letters stated that "Labor is now in the process of determining its policy in this area".

There were signs of awareness of the contradiction between policy and compassion. A letter was forwarded by The Hon Leo McLeay, which he sent to Federal Labor MPs regarding asylum seekers in February 2002. Following the Tampa Crisis, an Amended Border Protection Bill, and the 2001 election, he wrote, "I accepted it was more important for us to win the election and I was sure we would be more compassionate in Government". Despite such sentiments and promises for compassion, Labor has shown little sign that this attitude will change, or that they will acknowledge their responsibility towards refugees and TPV holders. McLeay concluded, "It is important that we act with compassion and provide leadership on the issue of asylum seekers".

The **'Supportive'** category reflected the content of letters from the Democrats, Greens, Independents, members of the Labor party and one Liberal politician. These personal responses emphasised several points:

1. Policies need to be reversed. "I am trying to reverse the trend of policies marked by pragmatism" said ALP member Jann McFarlane. Senator Aden Ridgeway wrote, "The Democrats have consistently opposed and called for the abolition of Temporary Protection Visas and continue to work towards achieving this aim."
2. A willingness to campaign on behalf of TPV holders. These responses made a commitment to continuing to work towards changing current policy. Democrat Andrew Bartlett wrote, "We will continue to work hard for these people who are no doubt in limbo and terrified of their uncertain future".
3. Constructive suggestions of things we could do to effect change, and in many cases offered their assistance.

The Supportive group included Democrats who expressed personal responsibility towards TPV holders. They showed compassion for TPV holders and a commitment to working towards changing at least the administration of current policies.

Part II: Biographies of Temporary Protection Visa Holders

“We are not God’s creatures. Even he has abandoned us” (Fernandes 2001:15). This is just one of the many pessimistic feelings expressed by TPV holders regarding their experience of living in Australia. The Deakin University Report (2001) identifies the people and structures which affect TPV holder’s lives. It also reveals the fear these people face when escaping their countries and whilst in mandatory detention. A woman from Afghanistan explained the fear she faced under the Taliban regime and the pain she felt at being forced to escape and leave her family behind:

“The Taliban first arrested and killed my eldest son at the age of twenty-two. He did nothing wrong – when the Taliban want to kill you or torture you, they don’t need a reason. Two months later my husband went missing for two weeks. One day the Taliban just threw my husband in front of our house. He was beaten so badly I could not recognise him. He died two days later...I was arrested and beaten again because my flesh on my arms between the gloves and the sleeves were showing. My family and children were convinced that I was going to be killed next so they raised money to get me out of Afghanistan. Now I am all alone and scared for my children. I feel very guilty and sad that I left my children behind” (Mansouri 2002:36).

The experiences of travelling to Australia by boat reinforced TPV holders' psychological distress. The following is an account of an Iraqi TPV holder’s experience of boat travel:

“We got on to a small fishing boat that is only big enough to accommodate 20 people, it had 120 people on board...There were times when we felt the boat was five to six meters up in the air...I thought this was the end of our life, everyone on the boat was terrified...At least eight people became very ill with typhoid and malaria” (Mansouri 2002:40).

TPV holders recall that their experience in mandatory detention was as traumatising as their journey to Australia. They reported their experiences in detention:

“...they had either experienced or witnessed the mistreatment of detainees by ACM (Australasian Correctional Management) staff. One of the most disturbing reports from a TPV entrant involved a man, who was experiencing ‘psychiatric illness’, who was paraded naked in front of other detainees. ACM staff were said to have ‘played games with the man, played with his genitalia’, humiliating him. ACM staff were also alleged to have taken photos” (Mann 2001:19).

Describing their predicament, TPV holders used terms such as “feeling stuck and unable to move...suffocating and emotionally imprisoning”. An Iraqi man simply said, “I still feel stateless and I still don’t belong” (Mansouri 2002:47). The biographies also revealed that TPV holders feel a complete lack of control over their future because of the power of government:

“When TPV holders were asked about their plans for the remainder of the time they held TPV status...All participants answered with a variation of: ‘How can we make plans when we don’t know what is going to happen to us? We don’t have control over our future, the Australian Government has. We cannot plan until the Government decides” (Mansouri 2002:50)

TPV holders feel that the policy is designed to punish them. The rejection of family reunion and the implications this has for TPV holders reinforces the policy’s malicious nature. Most TPV holders only realise the full implication of their temporary status after release from the detention centers. At this point they begin to feel the restrictions imposed on them. For example, TPV holders cannot leave Australia to reunite with family members without jeopardising their status. This represents a major failure in the policy. Some list family reunion as their first priority (Mann 2001:22). Fernandes (2001) identifies the mental anguish caused by denial of this entitlement:

“The loss of family threatens goals and aspirations TPV holders are highly committed to...Images of wife and children would flash before them the minute ‘they shut their eyes’. Images of the past also disturbed them in dreams and nightmares...the experience of failure is mentally alive” (Fernandes 2001:10).

The RCOA has identified that without effective family reunion procedures, significant psychological and financial distress can impinge on the refugee. This may “result in the refugee being impoverished in Australia (since any money that is earned will be sent overseas to support other family members)” (Esmaeili & Wells 2000:238). One TPV holder’s comment regarding the impossibility of being reunited with his family illustrates his suffering: “By thinking of my family I am punishing myself” (Fernandes 2001:14).

The lack of accommodation services provided for TPV holders once they leave detention compounds previous trauma. Children or unaccompanied minors are particularly vulnerable when they are separated from those adults with whom they have formed relationships whilst in detention.

“The young people who had journeyed with the adults and with whom they formed strong relationships are an important, if not the only source, of support and advice that they have access to on arrival in Brisbane. Socially and psychologically, unaccompanied minors require the cultural contact provided by adults” (Mann 2001:25).

Adult TPV holders have also experienced feelings of isolation in their search for accommodation. An Iraqi woman explained the sense of segregation she experienced:

If you are a TPV, nobody wants to give you housing, nobody wants to give you a job. We’re discriminated by everyone because we are TPV. TPV means my plight and circumstances is not recognised, it means I have no control over my life and my future, it means I cannot plan and I don’t know what is going to happen to me (Mansouri 2002:46).

It is difficult to comprehend how the Australian government could pursue a policy that not only does not meet the humanitarian needs of these refugees but also increases their suffering.

Part III: The Cost of Living on a Temporary Protection Visa

The limited services offered to TPV holders create costs that exacerbate the powerlessness of TPV holders' lives. Asylum seekers take little to no money with them when fleeing their country. The Federal Government limits support benefits for TPV holders once they are released from detention. These limitations include:

- Diminished access to Centrelink payments (Special Benefit only, which decreases \$1 for \$1 with any earnings from employment, and cuts out if you have \$5000 or more cash in the bank).
- Denial of sufficient settlement support services and accommodation assistance after being released from detention.
- Denial of the standard 510 hrs of free English classes provided to refugees with Permanent Protection Visas.
- Children being denied free intensive English classes.
- TAFE classes are charged at overseas student rates. TPV holders must pay up-front tertiary education fees.

Kirkland (2002) states that the Federal Government deprives TPV holders of the standard services necessary to overcome the effects of torture and trauma to settle successfully in an Australian community. TPV holders are also denied "intensive employment assistance, and very basic information and orientation services" (Kirkland 2002). This lack of entitlements handicaps their ability to find employment and therefore attain a basic standard of living. As a result TPV holders live a demeaning lifestyle, forced to share expenses such as transport, food and accommodation among groups of four or five people (Skelton 2002).

The Federal Government saves money through cutting services available to TPV holders. The cost to State Governments to compensate for such lost services has been estimated by the Victorian Government at approximately \$5 million p.a. for every 500 TPV holders (Mansouri 2002:19). The Refugee Council Of Australia (RCOA) found that, "Canberra had saved about \$5 million through its policy of denying basic services to Victoria's 563 TPV refugees, 100 of whom are children, including 27 without families" (RCOA 2001). The South Australian Government funded approximately \$400 000 to assist TPV holders attending TAFE in South Australia (Rann 2002).

In addition to financial compensation, service providers also face the psychological cost of TPV policy. Volunteers experience undue stress as they respond to the increasing demand for their services. With a limited budget service providers are forced to be selective about the services they are able to provide. This further impacts upon TPV holders. They are exposed to poverty and homelessness, "conditions, which will have human, social and political cost in the future" (Mansouri 2002:72).

Part IV: Attitudes of the Department of Immigration, Multicultural and Indigenous Affairs

The culture and administration of bureaucracies often make life difficult for the public whom they are meant to serve. Representatives of DIMIA are following this tradition but with regard to very vulnerable people. As of the 9th August 2002, some 8,498 Temporary Protection Visas (TPV) have been issued in Australia. Approximately 98 % of these TPV holders are men here without their families (DIMIA, August 2002). 47.59% are from Iraq and 41.5% are from Afghanistan. The remaining 10.91% are from Iran, Sri Lanka and Syria. 88% of Australia's TPV holders are between the ages of 18-44 years and approximately 50% live in NSW (Refugee Council of Australia 2001).

Temporary Protection Visa holders live in limbo, uncertain about their future and unlikely to be able to return to their countries of origin. Observations of senior officials' attitudes towards assessment of TPV holders suggest that this visa is more concerned with punishment than protection. Senior staff responsible for the assessment of TPV holders' applications for permanent status insist that their responsibilities have nothing to do with humanitarian issues, "Our responsibility is only to administer the law".

On several counts this is a confused interpretation of ways to administer a policy. It assumes that the formulation of laws is not influenced by humanitarian considerations. It ignores the social issues which affect the implementation of most social policies. It overlooks the factors which affect the interpretation of laws, in particular on appeal.

The either/or, law versus humanity way of thinking may give politicians and departmental officials a sense of security. However, it shows no understanding of the factors which have driven desperate people to seek asylum in Australia and whose lives in this country have become a matter of surviving forms of official cruelty. The creation of TPV status as a deterrent to other prospective asylum seekers has produced not only a culture of fear in the minds of TPV holders but also within the DIMIA bureaucracy. In the culture of that bureaucracy there is less room for raising questions than in the House of Representatives in Canberra. In that latter forum a bi partisan policy has made it difficult for the Australian public to hear about a policy alternative which would be compassionate, far less costly, more consistent with the Refugee Convention and which would provide hope for prospective Australian citizens.

Part V: The Refugee Determination Process for Temporary Protection Visa Holders

Temporary Protection Visas (TPV subclass 785) grant asylum in Australia for only three years. When this period has expired, TPV holders must be reassessed and again prove their refugee status, thus confirming the Australian Government's protection obligation towards them. If they have spent more than seven days in a recognised Safe Haven Country on their way to Australia, where they may have sought protection, refugees will only ever be eligible for a continual succession of TPVs. If not, they are eligible to apply for a Permanent Protection Visa (PPV). The re-assessment process for TPV holders is a harrowing experience. They are faced with the possibility of having to return to the country from which they fled fear and persecution. In the case of those applying for permanent protection, the re-determination process may be even more excruciating. This process greatly contributes to a sense of humiliation and powerlessness.

Case officers, the Refugee Review Tribunal (RRT), and the Minister are the only persons with the power and authority to extend protection to Temporary Protection Visa holders

(Crock & Saul 2002:53). In the Initial Assessment a DIMIA case officer, with the delegated authority of the Minister, must assess the written application to determine if the applicant still meets the criteria of a refugee under the Refugee Convention. In many cases this decision will be determined on the basis of their written application alone. If the applicant wishes to appeal this decision, a single member of the RRT will review the merits of the assessment made by the case officer. There is no jury involved in this process. Should the applicant wish to appeal this decision, the case can be referred to The Federal Court and the High Court. However, the Federal Court and the High Court only have the power to review questions of law and they refer the matter back to the RRT for reassessment. For those wishing to re-appeal the RRT's decision, the case may be put before the Minister. The Minister is not required to reconsider every rejected application presented to him, and is under no obligation to extend the protection of TPV holders.

Applying for refugee status is an intensely bureaucratic process, and is based on the principle that it is a *legal*, and not a humanitarian issue. In September 2001 the Australian Parliament passed legislation that greatly narrows the interpretation of the Refugee Convention's definition of "refugee". The new provisions involve tighter interpretations of the terms "persecution", "particular social group" and "non-political crime". The new Act also allows for the rejection of refugee claims of asylum seekers that officers "have reason to believe" are not telling the truth (Crock & Saul 2002:52).

Throughout the re-determination process little consideration is given to individuals' needs or circumstances. Many have lost their land, their houses and family members and are traumatised at the thought of returning home (Mares 2002:134). Such a key factor appears to have made no impact upon those making the decisions about their future. Refugees holding a TPV are held in a state of limbo, despite having already proved they are genuine refugees. From the time they arrived in Australia the constraints imposed on their lives have been used as an example to deter others from entering this country without correct documentation. Endless waiting and uncertainty is an enormous weight on TPV holders who already shoulder burdens and trauma from their homeland (Mares 2002:135).

In the re-determination process, the state of the TPV holder's home country is re examined. Information is sought from sources including the Department of Foreign Affairs, other governments and human rights groups (Crock & Saul 2002:55). Questions have been raised regarding the quality and accuracy of the information obtained by case officers. Greater value may be attributed to this information than the applicants' account. In addition to fulfilling the definition of a refugee, applicants must also meet 'the public interest' requirements (Regulations 4001, 4002 and 4003). These are subjective requirements. For example, refugees must prove that they are of 'good character'. Eighteen-year old Pakistani Bilal Ahad failed such an examination and was killed upon his forced arrival home in August 2002. Mr Ahad's refugee claim was rejected by the Refugee Review Tribunal. He was said to be a "highly unreliable witness" (Banham SMH October 2002).

How many others have experienced this fate? In the seven month period from the 1st July 2000 to 31st January 2001 3,021 cases were reviewed by the RRT. Overturning the Departments decisions, refugee protection was awarded in 366 cases (Crock & Saul 2002:62). In 2,425 cases (80 per cent) the RRT affirmed the Department's decisions denying refugee status. If the case officer or the RRT can be considered to have made a serious error of law, applicants can appeal to the Federal Court. There is no right of appeal of the Federal

Court's decision to the High Court. The Federal Court can only review questions of law and refer the matter back to the RRT for reassessment.

In 1999-2000, an application for review to the Federal Court took on average six and a half months to resolve, an improvement on the 10 months taken in 1995-96 (Crock & Saul 2002:63). In 2001-2002 1,427 cases were presented to the Federal Court. Of these, only 75 applicants succeeded in securing a rehearing by the RRT. In 131 cases, the Government withdrew, which meant that the cases also went back to the RRT (DIMIA Fact Sheet on Litigation Involving Migration Decisions). In 2001 legislation was enacted deeming it even more difficult to overturn the Tribunals decisions.

The pressure which these procedures place on Temporary Protection Visa holders is often unbearable. To be forced to endure this process every three years is unjust. It places stress on individuals, their family and community.

Part VI: Conclusions and Policy Implications

(a) Conclusions

- *Politicians' Indifference:* The majority of responses were dismissive, unresponsive and evasive. With the exception of members of two minor parties and some Labor members, politicians' indifference was apparent in two forms: (1) The failure to respond to repeated letters and telephone calls. (2) The content of replies which were received: many responses from elected members were circulars. Others contained typographical errors and non-sensical statements. They failed to address the specific issues raised by the researchers.
- *Some evidence of humanitarianism:* The responses to the research letters convey the negative attitudes of the Federal Government towards the plight of TPV holders. Only a small minority of politicians have expressed their opposition to current policies, and are individually and within their party working for a more humane and just policy towards refugees.
- *The importance of courage:* Current TPV policy will not be abolished, if a majority of Australian politicians maintain this indifference towards the treatment of refugees. Their attitudes should be known and subject to scrutiny. In a democracy politicians can be held accountable, at least for their lack of courage to stand up for vulnerable and powerless people.
- *Cruelty as part of 'fair go':* The restrictions that TPV's impose on refugees compound their powerlessness and exacerbate feelings of despair and helplessness. Denying family reunion indefinitely is a particularly inhumane aspect of this policy. Not since the Stolen Generation has the Australian Government shown such little regard for the rights of the family and the rights of the child. The effect of this policy combined with mandatory detention has led to people living in Australian communities who suffer dislocation and discrimination. They do not belong and will not be allowed to belong.
- *Protecting the vulnerable:* In the social policies of a civil society lies a responsibility to protect the vulnerable, not to exploit them. If refugees are to be

treated with dignity and according to the spirit of the Refugee Convention, policy changes need to be made in several areas.

(b) Policy Implications

(1) Refugee Review Processes

- The conduct of the RRT should be more open and transparent.
- NGO's should be able to contribute to the decision making and the awarding of protection. The process should not be controlled by DIMIA.
- Every refugee should have the right to legal representation and be kept up to date with the progress of their case.
- More resources must be allocated towards researching cases so that refugees are not kept in limbo for longer than necessary.

(2) The Issue of Costs

- States should follow the lead of Queensland (QLD) in offering, within their limits, the same services to refugees on TPV's as awarded to refugees with permanent protection.
- The Government should cease penalising states for using money to extend services to TPV holders. This would encourage other states to follow QLD's lead and would lessen the burden on the community and on volunteer organisations.
- When refugees leave detention centres they should be given settlement support services and accommodation assistance. Even a substantial increase in expenditure on public housing, health care, education and income support would be a fraction of the financial, let alone the social costs of the current expensive system of deterrence, including the Pacific solution.

(3) Abolishing The Restrictions in TPV Holder's Lives

- The social and financial costs of current policies can be avoided by abolishing TPV's and returning to a system of awarding Permanent Protection on recognition of refugee status.

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Appendix

Letters sent to politicians

The Hon Phillip Maxwell Ruddock
House of Representatives
Canberra
ACT 2600

Melissa Baxter
c/o Show Mercy (CPACS)
Mackie Building KO1
University of Sydney
NSW 2006

23rd August 2002

Dear Mr. Ruddock,

The Powerlessness of Temporary Protection Visa Holders

The need for a touch of courage

We seek your help in promoting humanitarianism in social policies in general and regarding the treatment of prospective refugees in particular.

Many politicians' statements about refugee policies have been marked by pragmatism and even by malice dressed up as reasonable and rational. We ask you to help reverse this trend by expressing the values which reflect this country's reputation for fairness. Such a reversal will require courage.

This plea applies in particular to the treatment of thousands of Temporary Protection Visa holders whose powerlessness is compounded by terrible uncertainty. In the next few months we shall provide more information about these people in limbo, but at this moment we seek your comments on the need for a 'touch of courage' if more generous policies towards some of the world's most vulnerable individuals are to be adopted.

Yours Sincerely,

Melissa Baxter
(on behalf of Show Mercy, Rights for Asylum Seekers)

The Hon Phillip Maxwell Ruddock
House of Representatives
Canberra
ACT 2600

Melissa Baxter
c/o Show Mercy (CPACS)
Mackie Building K01
University of Sydney
NSW 2006

13th September 2002

Dear Mr. Ruddock,

***The Powerlessness of Temporary Protection Visa Holders
Australia's Human Rights Obligations***

We are writing to you regarding the human rights abuses inflicted on refugees through Temporary Protection Visas. Australian delegates helped to craft the *United Nations Declarations of Human Rights*. Australia's commitment to these principles is reflected in its formal ratification of the *International Covenant on Civil and Political Rights*, the *Convention on the Rights of the Child*, the *Covenant on Economic, Social and Cultural Rights*, the *Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment*, the *Convention on the Elimination of all forms of Racial Discrimination* and the *Convention Relating to the Status of Refugees*.

But the cruel treatment of Temporary Protection Visa holders indicates that Australia has abandoned this noble tradition. Why?

The suffering inflicted by the conditions of these visas is extreme and unnecessary. Moreover, expert opinion agrees that Australia is in breach of Article 28 of the *Convention Relating to the Status of Refugees*. This breach denies successful refugee applications the right to family reunion and the right to travel out of, and return to Australia. It is inhumane to hold the lives of these vulnerable people in suspense. All refugees should be awarded permanent protection upon recognition of their refugee status.

A just and efficient refugee program would be humane and generous. We would be grateful for your advice as to how parliamentary reforms could be quickly effected, so that the humanity and human rights of Australia's temporary protection visa holders could be respected.

We assume you have no objections to the publishing of your response.

Yours Sincerely,

Melissa Baxter
(on behalf of Show Mercy, Rights for Asylum Seekers)

The Hon Phillip Maxwell Ruddock
The House of Representatives
Canberra
ACT 2600

Melissa Baxter
c/o Show Mercy (CPACS)
Mackie Building K01
University of Sydney
NSW 2006

18th October 2002

Dear Mr. Ruddock,

The Powerlessness of Temporary Protection Visa Holders

Financial and Psychological Costs

Immediate financial costs of sustaining over 9,000 TPV holders in Australia include the review of cases every three years and the associated legal costs of appealing decisions. Although the Federal Government may appear to save by cutting services, such as English classes, the costs to States of replacing lost services has been estimated by the Victorian Government at approximately \$5 million p.a. for every 500 TPV holders.

There are incalculable long term costs to a country, let alone to the TPV holders themselves, of creating within the population a large number of people who feel they do not belong, will not be allowed to belong yet have limited prospects of ever resettling into their country of origin. A policy of using Temporary Protection Visas to deter prospective asylum seekers also imposes health costs on individuals.

To the administrative and psychological costs of the current system must be added the weekly subsistence costs for each individual TPV holder. These have been estimated at a minimum of \$300 per week per person. Even these costs could be substantially reduced if all asylum seekers were awarded Permanent Protection Visas on recognition of their refugee status. In terms of cost effectiveness and the even more important humanitarian considerations, this would be a sound policy change.

We would be grateful for your observations on these issues and on the merits of the proposed policy change.

Yours Sincerely,

Melissa Baxter
(on behalf of Show Mercy, Rights for Asylum Seekers)

