



**Australian Red Cross**

**Submission to Senate Legal and Constitutional Affairs Committee's inquiry into  
The efficacy, fairness, timeliness and costs of the processing and granting of visa  
classes which provide for or allow for family and partner reunions**

**Prepared 5 May 2021**



## Foreword

Australian Red Cross (Red Cross) welcomes the opportunity to provide a submission to the Legal and Constitutional Affairs References Committee on the efficacy, fairness, timeliness and costs of the processing and granting of visa classes which provide for or allow for family and partner reunions.

As a humanitarian organisation and part of the broader Red Cross Red Crescent Movement (the Movement), Red Cross fulfils an important statutory role as auxiliary to the humanitarian services of public authorities. In accordance with the Fundamental Principles of the Movement including humanity, impartiality, independence and neutrality, a key priority of Red Cross is to assist people made vulnerable through the process of migration.

The Movement works as a global network to support families to locate missing relatives and re-establish contact through our Restoring Family Links program. In Australia, Red Cross has been providing humanitarian services to families separated as a result of conflict, migration and disaster for over 100 years.

In recognition of the humanitarian consequences of family separation, the Restoring Family Links Strategy 2020-2025 of the Movement<sup>1</sup> identifies the need to promote the right to family life and the principle of family unity, and support the reunification of separated families.

Our long-term support for separated families enables Red Cross to speak with authority on the humanitarian impacts of this area of government policy. We trust our contribution is helpful to the Legal and Constitutional Affairs References Committee in its deliberations. We would be pleased to engage further on this matter, if required.

**Noel Clement**

Director, Australian Programs

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<sup>1</sup> [Red Cross Movement Restoring Family Links Strategy 2020-25](#)



## Introduction

Red Cross recognises the sustained commitment of the Australian Government to a robust resettlement program, and the important contributions of migrants, including people seeking asylum and refugees in Australia. Red Cross is of the firm belief that broader and faster access to family reunion pathways for people made vulnerable through the process of migration is vital, for a number of reasons.

Red Cross does not encourage, discourage or prevent migration, nor does it directly involve itself in the legal processes of refugee determination or other immigration status matters, including supporting family reunion visa applications. However, consistent with our humanitarian focus and aligned with our expertise, this submission outlines our assessment of the humanitarian consequences of prolonged family separation and the critical role the presence of a strong family and community connection plays in supporting resilience.

Family connection is crucial in providing the emotional, material, cultural and physical support necessary to ensure strong settlement outcomes and support people to begin the healing process and rebuild their lives. This submission addresses refugees and humanitarian entrants in response to the following terms of reference of the Legal and Constitutional Affairs References Committee inquiry:

- Limitations on eligibility to apply for relevant visas;
- Waiting times for the granting of relevant visa; and
- Eligibility for and access to family reunion for people who have sought protection in Australia.

## Red Cross awareness of the impact of family separation

Red Cross has long been aware through our work with migrants experiencing vulnerability, including but not limited to those who have sought protection in Australia, that family separation is often associated with elevated mental health symptoms and can be a barrier to settling and establishing a new life. These practice-based observations are supported by research<sup>2</sup> including the findings from the Refugee Adjustment Study (RAS), a longitudinal investigation of refugee settlement and well-being in Australia, supported by Red Cross in collaboration with University of NSW and other agencies (Settlement Services International and Phoenix Australia), involving more than one thousand participants<sup>3</sup>. Initial findings from the RAS show an association between family separation and elevated mental health symptoms while also pointing to the protective role of social capital, including social group membership in the mental health and well-being of those on insecure visas.

Prompted by the desire to understand better why family separation is so damaging for forcibly displaced people (including refugees and people seeking asylum), and how people respond and cope with separation, Red Cross together with the Refugee Trauma and Recovery Program (RTRP) at UNSW established a qualitative research pilot<sup>4</sup> on this to help inform our work in the Restoring Family Links (RFL) program<sup>5</sup> and to ensure evidence drives practice in supporting separated family members. This submission draws heavily on the findings of these research activities

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<sup>2</sup> British Red Cross, International Committee of the Red Cross (ICRC), Red Cross EU Office, Swedish Red Cross, Swiss Red Cross. 2019. Humanitarian Consequences of Family Separation and People Going Missing.

<sup>3</sup> Liddell BJ; Byrow Y; O'Donnell M; Mau V; Batch N; McMahan T; Bryant R; Nickerson A, 2020, 'Mechanisms underlying the mental health impact of family separation on resettled refugees', *Australian and New Zealand Journal of Psychiatry*, pp. 4867420967427, <http://dx.doi.org/10.1177/0004867420967427>

<sup>4</sup> <https://www.redcross.org.au/getmedia/ca7b30a9-26d4-48f9-863c-8c6957ae7017/UNSW-Red-Cross-Family-Separation-Report.pdf.aspx>

<sup>5</sup> <https://www.redcross.org.au/get-help/help-for-migrants-in-transition/tracing-and-restoring-family-links>



and amplifies the voices of people who have experienced family separation and would benefit from greater access to, and improved processes for, family reunion. All first person reflections (noted by participant numbers) are direct quotes from the qualitative investigations.

## Family unity and resettlement

The powerful and positive contribution family makes to resettlement outcomes cannot be underestimated. While various programs of support including community orientation, employment transition, education, English language classes, housing, social services and income supports are vital, many of those who have sought protection in Australia identify the critical role of family in helping them overcome their pre-migration experiences and manage the challenges of starting a new life and building a future in Australia. Enabling family reunion wherever possible has the potential to add value to current resettlement services and may reduce the time and supports that some refugees require during their resettlement process.

Our research has highlighted that family gives life meaning, is fundamental to self-identity<sup>6</sup> and provides practical and emotional support enabling people who have sought protection in Australia to navigate a range of challenges associated with forced displacement.

*“Being together.... Is important because you share the problem, you solve the problem together, and you help one another, emotionally, economically and being together helps to build a future life together...” (Participant 38)*

The presence of family can act as a buffer against social stress and adjustment difficulties. Red Cross’s in-depth interviews with family members who were experiencing separation revealed a range of motivations for being reunited with family from seeking peace and happiness, to enabling security and support and facilitating settlement and establishing their new life in Australia.

Participants in our research reflected that they would be managing their resettlement in Australia more easily and successfully if their family were with them to support both emotionally and practically.

*“If I had my family members around, my uncle, it could have made everything easier...I could have continued with my higher education because he would be there, maybe look for work, support me.... But because I had no support, no relatives, no nothing whatsoever, I had to take care of myself, stop studying and go for work...having relatives, definitely you cannot compare it with any other things.” (Participant 32)*

*“There are so many problems, we are just two [me and my husband]. If my siblings were here, they could probably help me look after my children, we could have shifts; some go to work and some look after children. I can’t work full time or can’t work the hours I want because I don’t have anywhere I can put my children. Sometimes when my husband is sick, he doesn’t go to work, and no one can look after the children. It’s so hard for us to manage life.” (Participant 10)*

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<sup>6</sup> Liddell BJ; Byrow Y; O’Donnell M; Mau V; Batch N; McMahan T; Bryant R; Nickerson A, 2020, 'Mechanisms underlying the mental health impact of family separation on resettled refugees', *Australian and New Zealand Journal of Psychiatry*, pp. 4867420967427, <http://dx.doi.org/10.1177/0004867420967427> ; Miller, A., Hess, J. M., Bybee, D., & Goodkind, J. R. (2018). Understanding the mental health consequences of family separation for refugees: Implications for policy and practice. *Am J Orthopsychiatry*, 88(1), 26-37. doi:10.1037/ort0000272



Our research has found that the direct impact of family separation on psychological well-being is significant, contributing to fear-based worries, anxiety about the future and often interfering with general functioning, affecting the ability to sleep, study, concentrate or work. Likewise, the RAS found significant differences in the post-migration living difficulties for those with no family in Australia compared to those with some or all of their family in Australia. People who were separated from family had elevated post-traumatic stress disorder (PTSD) and depression symptoms and these mental health symptoms appeared to occur via social –related settlement stressors such as isolation and discrimination.

*“In that time, I didn’t even go to school or work because I was feeling very sad.” (Participant 9)*

Some participants reported mental health issues, including in children, as a direct result of separation. The research suggested that the distress frequently witnessed by Red Cross in its work with separated families is often a reflection of the disruption of primary relationships at a time when family support and unity are most needed as people grapple with their identity when settling into their new communities in Australia.

*“In that time, when I was thinking about my family, I didn’t think to make friends or to say hello to people or interact with other people. I wasn’t even smiling or laughing. When I met someone, and they said hello to me, it was just “hello, hello”. To say it or to socialize, it was impossible.” (Participant 10)*

## Limitations on eligibility

Red Cross recognises the responsibility of States to uphold the dignity and rights of those in its jurisdiction, and notes that the right to family life is fundamental for all. Current obstacles to family reunification for those outside the special humanitarian program include the restrictions on family reunion according to the list of priorities outlined in Ministerial Directive 80.<sup>7</sup> This has effectively established a hierarchy of those who are likely to be able to access family reunification, with permanent visa holders who arrived in Australia by boat as the lowest priority, and therefore unlikely to ever have the opportunity to be reunited with family members.

Limiting family reunion as a deterrent<sup>8</sup> to people who have been granted permanent visas in Australia is both inhumane and ineffective. In some cases long term family separation will be one of the primary causes of people being unable to establish new and productive lives and will likely result in greater reliance on government supports and services for longer periods.

Family reunion should be viewed not as a concession but as a powerful tool available to government to provide deep and lasting support to those who have sought protection in Australia.

## Waiting times for family reunion

Given the significant impact on wellbeing of prolonged separation from family members, the efforts of the Australian Government to welcome and integrate refugees and humanitarian entrants into the community through the Humanitarian Settlement Program are undermined by long delays in waiting for visas to be granted in some

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<sup>7</sup> <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-processing-times/family-visa-processing-priorities>

<sup>8</sup> Home Affairs Response to the Australian Human Rights Commission Report – Lives in Limbo: Protecting the human rights of refugees and asylum seekers in the ‘Legacy Caseload’ April 2019, recommendation 22.

[https://humanrights.gov.au/sites/default/files/2019-07/HOME\\_AFFAIRS\\_RESPONSE\\_180419\\_LEGACY\\_CASELOAD\\_OHR-19-00021.pdf](https://humanrights.gov.au/sites/default/files/2019-07/HOME_AFFAIRS_RESPONSE_180419_LEGACY_CASELOAD_OHR-19-00021.pdf)



categories. While the waiting time for Special Humanitarian visas, is at an average processing time of 10.5 months, there are long waiting times, such as over two years for a child and between three and half to over four years for an orphan relative visa<sup>9</sup>, which exacerbate prolonged family separation and is particularly stressful for refugees and others who have concerns for the immediate safety and well-being of their family who remain abroad.

Further challenges in relation to non-humanitarian visas, include the prohibitive costs which discriminate against larger families, lack of support through the Humanitarian Settlement Program (except in very limited circumstances through complex case support), and the prolonged processing times for vulnerable aged dependents of up to a decade, reflecting a view that older people are less valued.

Given the Australian Government response to the COVID-19 pandemic included a reduction of the annual humanitarian intake for 2020-2021, it will be important to ensure that this does not further limit access to family reunion once the pandemic subsides.

The research by Red Cross and UNSW underscores the need for more timely processing of family reunion visas especially for those who have sought protection in Australia. Prolonged visa waiting times, prolong the stress and mental health burden of separation and may delay or prevent people from fully establishing their new lives in Australia.

The research findings further revealed a sense of cultural loss because of family separation, which amplified feelings of social isolation, impacting on adaptive settlement in Australia. Losing the cultural anchor of family appears to be related to feeling more unsettled and less connected with the Australian community. For those who have been forcibly displaced there are many challenges to settling and connecting with a new community. It is clear that enabling family reunion wherever possible and in a manner that is swift and transparent could greatly contribute to overcoming those challenges.

*“You just think about your family, what is happening to your family, how is their wellbeing, what’s going on with them, what’s happening to them. You never think about making friends working, doing this or doing that -no. You are just focused on thinking about what’s happening to my family. That’s it every day, every minute.” (Participant 10)*

Those who seek protection have heightened reasons for needing fast, fair and humane decisions around family reunion; their family members are often enduring extreme hardship and sometimes experiencing the very conditions of persecution, conflict or disaster that they themselves fled. For many in this situation, this creates an acute sense of responsibility; our research identified three distinct areas of responsibility; financial support, emotional support and responsibility to arrange the safety of family members. Each of these was associated with significantly elevated stress.

*“Sometimes I give them a call at night time to check out they’re alive and they’re safe but I cannot change, I do not have the power to change and bring them immediately to me but I am just waiting.”*

*“Will I be alive today or tomorrow? They live day by day. Not month by month or week by week like living here. Next year program. 10 years program. They don’t have program for (the) next minute. They will be alive or get kidnapped or they will kill them. It is not safe. Dangerous place to live. So that make(s) me upset, (that) the process of the [legal service] take so long.” (Participant 28)*

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<sup>9</sup> <https://immi.homeaffairs.gov.au/visas/getting-a-visa/visa-processing-times/global-visa-processing-times>



We also find, in research and in practice, that a preoccupation with the safety of absent family members may negatively impact the efforts of refugees to resettle, including impacting on productive tasks like acquiring language or job skills.

## Recommendations

Informed by this evidence and our extensive experience on the ground providing support services, Red Cross recommends, that the Australian Government:

- Broaden eligibility and increases flexibility in processing of family reunion visas for separated family members. This includes removing any distinctions by humanitarian visa type or mode of arrival in the family reunion processing prioritisation.
- Invest additional resourcing in order to prioritise family reunion applications and reduce processing times for family reunion applications.
- Expedite family reunification and reduce risk of harm for those who are in precarious situations abroad, and have heightened reasons for needing fast, fair and humane decisions around family reunion.
- Demonstrate strong, fair and timely support for family reunification, including greater access to settlement services and support where required to prevent future vulnerability, such as community orientation offered through the Humanitarian Support Program to promote greater independence and sufficiency amongst vulnerable people.

## Conclusion

By adopting these recommendations, the Australian Government can build on its long-term commitment to ensuring strong humanitarian settlement outcomes for those made vulnerable through the process of migration, as they work to shape meaningful futures in Australia with their families.