



24 May 2024

Dear Committee Secretary,

Review of the Points Test: Discussion Paper

The Andrew & Renata Kaldor Centre for International Refugee Law at UNSW Sydney is pleased to provide a submission relating to the *Review of the Points Test: Discussion Paper*.

The Kaldor Centre is the world's leading research centre dedicated to the study of international refugee law. Founded in October 2013, we undertake rigorous research on the most pressing displacement issues in Australia, the Asia-Pacific region and around the world, and contribute to public policy by promoting legal, sustainable and humane solutions to forced migration.

Our submission focuses on the skills that refugees and others in need of protection can bring to Australia.

Recommendation

We recommend that the points test expressly allocate points to refugees and others in need of international protection.

Rationale

Offering skilled refugees a complementary pathway to protection

Many refugees and other humanitarian entrants have valuable skills to contribute to Australia.¹ However, resettlement is an option for very few, with long wait times and very limited places.² As a report into the integration, employment and settlement outcomes of refugees observed:

Refugees are risk-takers. While they have experienced traumatic violence and displacement, this often builds tremendous strength and resilience. They arrive determined to build new lives for themselves, their families and their communities in a safer place that offers them stability, order and opportunity.³

Enabling people to acquire points linked to the fact of their displacement would unlock the potential of skilled migration as a complementary pathway to protection outside the

¹ There are 'many skilled and highly educated individuals awaiting humanitarian resettlement': Peter Shergold, Kerrin Benson and Margaret Piper, *Investing in Refugees, Investing in Australia: The Findings of a Review into Integration, Employment and Settlement Outcomes for Refugees and Humanitarian Entrants in Australia* (February 2019) 60 <https://www.homeaffairs.gov.au/reports-and-pubs/files/review-integration-employment-settlement-outcomes-refugees-humanitarian-entrants.pdf>.

² See eg Refugee Council of Australia, 'Global Resettlement Statistics' (March 2024) <https://www.refugeecouncil.org.au/global-resettlement-statistics/2/>.

³ Shergold et al (n 1) 5.

humanitarian stream.⁴ Providing complementary pathways to protection is a commitment made by the Australian government at the Global Refugee Forum in 2023,⁵ and a core part of its role as the Chair of the 2024 Consultations on Resettlement and Complementary Pathways and as a founding member and co-Chair of the Global Task Force on Refugee Labour Mobility.⁶ The 2023 *Review of the Migration System* also recommended that Australia's future migration system should protect Australia's global interests by promoting 'humane lawful pathways' for displaced people.⁷

The Global Task Force on Refugee Labour Mobility promotes 'the growth and implementation of labour complementary pathways', which:

- help displaced people move safely to third countries through **regular labour or economic migration programs**
- recognize refugees' **skills, abilities and talents**, as well as their need for protection
- show how refugees **contribute** to their new countries, communities and workplaces
- give employers **access to a new talent pool** to fill job openings.⁸

Such pathways are relatively new and there is no set model, as a recent mapping of 31 countries' practices reveals.⁹ Importantly, the Global Task Force on Refugee Labour Mobility affirms that labour complementary pathways should be:

- additional to existing resettlement commitments so as to expand access to protection
- offer avenues to permanent protection and support integration into the community
- safeguard the rights and protection needs of refugees and their families
- meet the labour market needs of the receiving country.¹⁰

Devising a points test that recognizes displacement, among a range of other factors, would provide a streamlined and systemic way of providing complementary pathways for skilled refugees and their families who may otherwise wait years for a durable solution. As noted further below, refugees' partners could also make an important contribution if the partner points allocation were increased. Overall, these adjustments would help to avoid a waste of human talent and human capital – with benefits for refugees themselves, and for Australia's economy and social fabric.¹¹

⁴ See further UNHCR, 'Employment Pathways' <https://www.unhcr.org/what-we-do/build-better-futures/long-term-solutions/complementary-pathways-admission-third-1>.

⁵ See Refugee Council of Australia, 'Australian Government Makes 23 Pledges at 2023 Global Refugee Forum' (6 February 2024) <https://www.refugeecouncil.org.au/australian-government-pledges-at-the-2023-global-refugee-forum/>.

⁶ Government of Canada, 'Global Task Force on Refugee Labour Mobility' <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/mandate/corporate-initiatives/global-task-force-refugee-labour-mobility.html>.

⁷ Martin Parkinson, Joanna Howe and John Azarias, *Review of the Migration System: Final Report* (Commonwealth of Australia, 2023) 26. <https://www.homeaffairs.gov.au/reports-and-pubs/files/review-migration-system-final-report.pdf>.

⁸ Global Task Force on Refugee Labour Mobility (n 6).

⁹ Refugee Council of Australia, *A Global Snapshot of Resettlement and Complementary Pathways* (March 2024) https://www.refugeecouncil.org.au/wp-content/uploads/2024/03/Resettlement-and-Comp-Pathways-Global-Snapshot_FINAL.pdf.

¹⁰ Global Task Force on Refugee Labour Mobility (n 6). See also Australian Labour Party National Platform (2023) 138 <https://www.alp.org.au/about/national-platform>.

¹¹ *Kaldor Centre Principles for Australian Refugee Policy* (rev March 2022) 3 [https://www.unsw.edu.au/content/dam/pdfs/unsw-adobe-websites/kaldor-centre/20023-09-kaldor-principles/2023-09-Kaldor Centre Principles for Australian Refugee Policy Mar22.pdf](https://www.unsw.edu.au/content/dam/pdfs/unsw-adobe-websites/kaldor-centre/20023-09-kaldor-principles/2023-09-Kaldor%20Centre%20Principles%20for%20Australian%20Refugee%20Policy%20Mar22.pdf)

Allocating points for displacement would also strengthen a refugee's chances of securing permanent residency, lessening the problem of 'permanently temporary migrants' identified in both the 2023 *Review of the Migration System* and the 2024 *Review of the Points Test: Discussion Paper*.¹² It would also help to ease the barriers that typically prevent refugees from migrating for employment and other reasons. As the Refugee Council of Australia and others have noted, these include 'the inability to acquire required documentation (e.g. police checks, passports), inability to meet the "genuine temporary entrant" criteria for a temporary visa to enter Australia (e.g. international student visas), and the prohibitively high costs associated with alternative migration pathways'.¹³ In addition, refugees' skills and qualifications may not be recognized and they may face discrimination.¹⁴

In some cases, the allocation of points would also compensate for lost time in education and training on account of displacement and upheaval, including any minor shortfall in English language skills. A database of 18,800 displaced job seekers shows that the vast majority have intermediate or higher English language skills,¹⁵ and evidence from Australia and Canada indicates that new arrivals can 'quickly develop their English skills in an English-speaking work environment'.¹⁶

Benefits to employers and Australian society

Evidence shows that refugees are among Australia's most successful permanent residents and citizens,¹⁷ bringing 'a diverse range of skills, experience and capacities to benefit the labour markets and economy of countries that offer them a safe and permanent home'.¹⁸ In 2015, the Australian Bureau of Statistics found that refugees were 'the most entrepreneurial' of all migrants,¹⁹ a finding echoed in a 2019 report, which added that they were 'nearly twice as likely to be entrepreneurs as Australian taxpayers in general'.²⁰

¹² Parkinson, Howe and Azarias (n 7) 96; Department of Home Affairs, *Review of the Points Test: Discussion Paper* (April 2024) 7 <https://www.homeaffairs.gov.au/reports-and-pubs/PDFs/points-test-discussion-paper-april-2024.pdf>;

¹³ Refugee Council of Australia et al, 'Complementary Pathways for Refugees and the Future of Australia's Migration System: Joint Submission to the Migration System for Australia's Future Discussion Paper' (15 December 2022) 1–2 https://www.homeaffairs.gov.au/reports-and-pubs/files/migration-system-aust-future-submissions/g-Joint_submission_Complementary_Pathways_for_Refugees.pdf.

¹⁴ Philippe Legrain and Andrew Burrige, *Seven Steps to SUCCESS: Enabling Refugee Entrepreneurs to Flourish* (Centre for Policy Development and Open Political Economy Network, 2019) 7 <https://cpd.org.au/wp-content/uploads/2019/04/Seven-Steps-to-SUCCESS.pdf>.

¹⁵ Talent Beyond Boundaries, *Global Evaluation: Labour Mobility Pathways Pilot 2016–2019* (June 2020) 21 <https://static1.squarespace.com/static/5dc0262432cd095744bf1bf2/t/5ed62ca2a8c2082cb652b167/1591094458187/TBB+Global+Evaluation+2020+Final+%28external%29.pdf>.

¹⁶ *Ibid*, 70.

¹⁷ Jane McAdam and Fiona Chong, *Refugee Rights and Policy Wrongs: A Frank, Up-to-Date Guide by Experts* (UNSW Press, 2019) 90–93; Graeme Hugo, *A Significant Contribution: The Economic, Social and Civic Contributions of First and Second Generation Humanitarian Entrants: Summary of Findings* (Department of Immigration and Citizenship, 2011) <https://immi.homeaffairs.gov.au/settlement-services-subsite/files/economic-social-civic-contributions-booklet.pdf>; Graham Hugo, 'The Economic Contribution of Humanitarian Settlers in Australia' (2014) 52 *International Migration* 31.

¹⁸ Refugee Council of Australia et al (n 13) 4.

¹⁹ Australian Bureau of Statistics, 'Humanitarian Migrants the Most Entrepreneurial: ABS Report', Media Release (4 September 2015) <https://www.abs.gov.au/AUSSTATS/abs@.nsf/Previousproducts/3418.0Media%20Release12009-10>.

²⁰ Philippe Legrain and Burrige (n 14) 6 <https://cpd.org.au/wp-content/uploads/2019/04/Seven-Steps-to-SUCCESS.pdf>. This echoed earlier, government-commissioned research: See Hugo 2011 (n 17) 38–39.

As we state in the *Kaldor Centre Principles for Australian Refugee Policy*, ‘given the right opportunities, refugees are remarkably successful at integrating into Australia – joining communities, making friends, contributing to their communities and, for many, learning a new language.’²¹

However, ‘Australian employers need to be made aware that migrants and refugees bring in a diverse and valuable range of skills that can generate innovative practices and knowledge within the workplace’.²² Allocating points for displacement would be an important signal in this direction.

Employers who have hired refugees attest that they are typically ‘resourceful, determined and highly motivated’; contribute to ‘diverse and inclusive workplaces’; and bring valuable technical expertise, linguistic skills ‘and a global perspective’.²³ They have low turnover rates and strong employer loyalty, and ‘help to create new customer markets for the future and to service the needs of an ethnically diverse society’.²⁴

Enhancing young, skilled migration

Refugees who come to Australia are generally young (under the age of 36).²⁵ As the *Review of the Points Test: Discussion Paper* notes:

A focus on selecting young, skilled migrants will help manage the challenges of an ageing population. Young migrants spend their lives in Australia, contributing to workplaces, communities and society as a whole. This can be for 20, 30 or many more years.²⁶

Refugees also have ‘the lowest rate of settler loss (the extent to which migrants leave Australia permanently), thereby increasing the potential lifetime economic contribution that they can make to Australia’.²⁷

Community language skills

In addition to providing points specifically on account of displacement, refugees would also benefit from points allocated to community language skills.²⁸ Refugees’ cultural and linguistic diversity can be ‘a great source of opportunity for Australia’s future in a global economy’.²⁹

²¹ *Kaldor Centre Principles for Australian Refugee Policy* (n 11) 26, referring to Jock Collins and Carol Reid, ‘Refugees are Integrating Just Fine in Regional Australia’, *The Conversation* (13 August 2018) <https://theconversation.com/refugeesare-integrating-just-fine-in-regional-australia-101188>.

²² Hugo 2011 (n 17) 43.

²³ Shergold et al (n 1) 41.

²⁴ *Ibid.*

²⁵ See Refugee Council of Australia, ‘Statistics on People Seeking Asylum in the Community’ (17 May 2024) <https://www.refugeecouncil.org.au/asylum-community/7/>, drawing on data from the Department of Home Affairs.

²⁶ Department of Home Affairs (n 12) 4; see also 12–13.

²⁷ McAdam and Chong (n 17) 92. See also Collins and Reid (n 21).

²⁸ See NAATI, ‘Credentialed Community Language Test: Factsheet’ (2022) https://www.naati.com.au/wp-content/uploads/2023/05/Fact-sheet-CCL-Candidates-Oct-2022_Digital.pdf. This refers to the ‘ability to communicate at a community level between two languages (English and another language)’: 2.

²⁹ Shergold et al (n 1) 5.

Points for partners; enhancing the participation of refugee women

Finally, increasing the number of points available to partners would assist refugees and their family members.³⁰ Importantly, it would also enhance the participation of refugee women, who experience the greatest human capital loss through displacement.³¹

Conclusion

Our recommendation – that the points test expressly allocate points to refugees and others in need of international protection – would secure better humanitarian outcomes at the same time as it would advance social and economic benefits for Australia.

Please do not hesitate to contact us if we can be of further assistance.

Yours sincerely,

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Director

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³⁰ Department of Home Affairs (n 26) 14–15.

³¹ Claire Higgins, Sally Baker, Stephanie Cousins, Ben Zhe Wang, Zhiming Cheng, Massimiliano Tani and Victoria Jack, 'Refugees as Skilled Migrants: Insights from Australia's 2018 Employer-Sponsored Refugee Migration Pilot' (2023) 170 *Social Indicators Research* 323, 328.