



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>.

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:

- x help displaced people move safely to third countries through regular labour or economic migration programs
- x recognize refugees' skills, abilities and talents, as well as their need for protection
- x show how refugees contribute to their new countries, communities and workplaces
- x 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:

- x additional to existing resettlement commitments so as to expand access to protection
- x offer avenues to permanent protection and support integration into the community
- x safeguard the rights and protection needs of refugees and their families
- x 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

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 additi expees, , ame inffge uldm a00ui-22.1755 ho15 Tme'.18 610.74 Tm-.002 Tc049n,migrating28d,2per,

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,

Professor Jane McAdam AO
Director

Dr Claire Higgins
Senior Research Fellow

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