

A new emergency visa for Australia?

by Jane McAdam

2 October 2024



Evacuees from Kabul, Afghanistan board an Australian contracted flight to Australia, September 2021

Photo Credit: *Defence/Jacqueline Forrester*

In a new policy brief published by the [Evacuations Research Hub](#) at the University of New South Wales, Regina Jefferies and I call on the Australian government to create an emergency framework for a more streamlined, equitable, predictable and effective response to humanitarian crises abroad — including a new emergency visa.

Australia's protection response to disasters overseas has been highly varied. It has mostly focused on [the evacuation](#) of Australian citizens and their families, with [humanitarian assistance](#), [technical capacity](#) and [development support](#) being the additional typical responses. While some flexibility has been provided for affected nationals in Australia who are unable to return home — for instance, through [visa extensions](#) — there have rarely been concerted efforts to facilitate the departure of affected communities from the disaster area. This is in contrast to evacuation and protection efforts in situations of conflict.

However, even in conflicts, Australia's response has been very ad hoc. Sometimes it has actively evacuated people (as in the case of Afghanistan); at other times, it has created special procedures or visas to facilitate protection (as in the case of Kosovo). Over time, [at least 25 different types of visas](#) have been used to respond to humanitarian emergencies, resulting in diverse and unequal outcomes for those affected (see Table 1 below).

Our Policy Brief — [Ensuring protection in Humanitarian emergencies: A framework for Australia](#) — provides a blueprint for what Australia's response could look like. Through eight core recommendations, we explain how a new emergency framework would facilitate the evacuation and protection of people from conflict or disasters in order to avoid extreme danger or other risks of serious harm. It would also ensure that people already in Australia when disaster strikes their home country are not forced to return to dangerous situations.

The framework would provide a ready-made plan to be activated if the government declared the existence of a “humanitarian emergency” necessitating a protection response, rather than defaulting to ad hoc and hastily devised policies. What constitutes such an emergency should be guided by international best practice and sufficiently flexible to respond to a range of different circumstances.

A core recommendation is that the government should create a new emergency visa to enable people to reach Australia lawfully and quickly. The visa should permit an initial stay of at least 12 months, with a pathway to permanent residence if it is not safe, possible or otherwise desirable for people to return home. People should be given immediate access to services, as well as work and study rights.

In our own region, an emergency visa response would complement the suite of proactive migration policies for Pacific countries that Australia now has in place. This includes the new [Pacific Engagement Visa](#) (which provides up to 3,000 permanent resident visas per annum) and the innovative “special human mobility pathway” that is a centrepiece of the [Falepili Union treaty](#), which will enable 280 Tuvaluans to migrate to Australia annually. While Pacific communities are highly resilient to disasters, having developed sophisticated risk reduction and coping strategies over centuries, there may be times when additional support is needed.

Indeed, the Falepili Union makes clear that, if requested, Australia will “provide assistance to Tuvalu” in response to “a major natural disaster”, “in accordance with its international law obligations, international commitments, domestic processes and capacity”. Such assistance could include cross-border evacuations and assistance.

Potentially, a country affected by a disaster or other emergency could request that Australia trigger the framework: indeed, it would be [obliged to ask for help](#) if the “disaster manifestly exceeds its national response capacity”. Assistance must be rendered in a “prompt and effective” manner, including with respect to “visa and entry requirements, work permits, and freedom of movement”. The [Sendai Framework for Disaster Risk Reduction](#) also calls for the promotion of “transboundary cooperation ... to build resilience and reduce disaster risk, including ... displacement risk”.

It is a [longstanding practice](#) of countries to provide emergency humanitarian protection to people who are displaced by the impacts of disasters, or who are stranded overseas after a disaster strikes their country of origin. In eastern Africa, for example, the Intergovernmental Authority on Development [Free Movement Protocol](#) specifically allows people to enter and remain in a country if they are moving in anticipation of, during or after a disaster.

DEVPOLICYBLOG

Creating a framework — and an emergency visa — would give concrete effect to Australia's commitment in the [Pacific Regional Framework on Climate Mobility](#) to “strengthen, harmonise and expand policies and practices concerning humanitarian admission and stay ... in the context of climate change and related hazards and disasters”.

As climate change amplifies the frequency and severity of disasters, now is the time to act. By taking a bold, dynamic and forward-looking approach to humanitarian emergencies, Australia would not only demonstrate its commitment to [international solidarity and responsibility-sharing](#), but also its leadership in responding in a timely, considered and principled manner.

Read the [policy brief](#) on the [Kaldor Centre for International Refugee Law](#) website.

Table 1: Australia's humanitarian visa responses over time

Visa	Affected Population(s)	Part of existing Refugee and Humanitarian Programme	Entitlements[i]	Provides durable solution
Refugee (subclass 200)	Various nationalities outside Australia	Yes	Medicare, Centrelink, Work rights	Yes
In-country Special Humanitarian (subclass 201)	Yazidis, Afghan Locally Engaged Employees	Yes	Medicare, Centrelink, Work rights	Yes
Global Special Humanitarian (subclass 202)	Various nationalities	Yes	Medicare, Centrelink, Work rights	Yes
Emergency Rescue (subclass 203)	Various nationalities outside Australia	Yes	Medicare, Centrelink, Work rights	Yes
Women at Risk (subclass 204)	Various nationalities outside Australia	Yes	Medicare, Centrelink, Work rights	Yes
East Timorese in Portugal, Macau or Mozambique (subclass 208) (repealed 1997)[ii]	East Timor	Yes	Medicare, Centrelink, Work rights	Yes
Citizens of Former Yugoslavia (Displaced Persons) (subclass 209) (repealed 2000)	Yugoslavia	Yes	Medicare, Centrelink, Work rights	Yes
Minorities of Former USSR (subclass 210) (repealed 1999)	Former USSR	Yes	Medicare, Centrelink, Work rights	Yes
Burmese in Burma (subclass 211) (repealed 2000)	Burma	Yes	Medicare, Centrelink, Work rights	Yes
Sudanese (subclass 212) (repealed 2000)	Sudan	Yes	Medicare, Centrelink, Work rights	Yes
Burmese in Thailand (subclass 213) (repealed 2000)	Burma	Yes	Medicare, Centrelink, Work rights	Yes
Cambodian (subclass 214) (repealed 1997)	Cambodia	Yes	Medicare, Centrelink, Work rights	Yes
Sri Lankan (Special Assistance) (subclass 215) (repealed 2000)	Sri Lanka	Yes	Medicare, Centrelink, Work rights	Yes
Ahmadi (subclass 216) (repealed 2000)	Ahmadis, citizens of Pakistan	Yes	Medicare, Centrelink, Work rights	Yes
Vietnamese (subclass 217) (repealed in 1999)	Vietnam	Yes	Medicare, Centrelink, Work rights	Yes
Kosovar Safe Haven (subclass 448) (repealed 2014)	Kosovo, East Timor	No	Work rights[iii]	No
Humanitarian Stay (Temporary) (subclass 449)	Kosovo, East Timor, Afghanistan, Ukraine	No	Medicare[iv], Centrelink	No[v]
Special Schemes (Locally Engaged Employees)	Afghanistan	Yes	None	No
Protection Visa (onshore) (subclass 866)	Refugees within Australia	Yes	Medicare, Centrelink, Work rights	Yes
Visitor Visa (subclass 600)	Sudan, Ukraine, Gaza, Afghanistan, various other nationalities	No	None	No

Additional 5 rows not shown.

Source: Ensuring protection in Humanitarian emergencies: A framework for Australia • Created with Datawrapper

Notes:

[i] While some visa subclasses may be entitled to assistance beyond Medicare, Centrelink and work rights, this table only addresses those three main entitlements. See also Australian Government, 'Visa Subclasses 200–299 Payment Eligibility', *Guide to Social Security Law* (v 1.319, 12 August 2024) <https://guides.dss.gov.au/social-security-guide/9/2/4>.

[ii] Visa subclasses 208–217 were collectively grouped as the Special Assistance Category (SAC), introduced in 1991 'to respond to crises in particular countries, permitting settlement of people in vulnerable circumstances and with connections in Australia': Refugee Council of Australia, 'How Do Refugees Come to Australia under Its Refugee and Humanitarian Program?' (3 December 2023) <https://www.refugeecouncil.org.au/coming-to-australia/7/>. SAC entrants were included in the annual Refugee and Humanitarian Program and received the same entitlements as other offshore entrants.

[iii] Although visa holders did not initially have any work rights, on 1 July 1999, visa conditions changed to allow people to work up to 20 hours per week. See Robert Carr, 'The Safe Haven Visa Policy: A Compassionate Intervention with Cruel Intentions', *Australian Policy and History* (13 November 2017) <https://aph.org.au/2017/11/the-safe-haven-visa-policy-a-compassionate-intervention-with-cruel-intentions/>.

[iv] Only Medicare-eligible if covered under a ministerial order.

[v] The minister must 'lift the bar' to enable someone to apply for a permanent visa.

[vi] Although no durable solution was originally envisaged for this visa class, on 13 February 2023, the government announced that a pathway for permanent protection (through a permanent Resolution of Status visa (subclass 851)) would be available to refugees on a Temporary Protection Visa (subclass 785) or a Safe Haven Enterprise Visa (subclass 790). See Department of Home Affairs, 'Subclass 851: Resolution of Status' (last updated 10 May 2024) <https://immi.homeaffairs.gov.au/Visa-subsite/Pages/other-visas/851-RoS.aspx>.

[vii] The minister must 'lift the bar' to enable someone to apply for a permanent visa.

[viii] Only Medicare-eligible if covered under a ministerial order.

Disclosures:

This research was supported by an Australian Research Council Laureate Fellowship on 'Evacuations in International Law: Disasters, Conflict and Humanitarian Crises' (FL230100011).

Author/s:

Jane McAdam

Professor Jane McAdam AO is an Australian Research Council Laureate Fellow and Director of the [Evacuations Research Hub](#) at the Kaldor Centre for International Refugee Law, University of New South Wales.

Link: <https://devpolicy.org/a-new-emergency-visa-for-australia-20241002/>