**Why we need justice for all people seeking asylum who have been denied refugee protection under the “Fast Track” assessment process.**

**What is the Fast Track Process?**

In 2014, the Abbott Coalition Government introduced the “Fast Track” system for people seeking asylum who arrived by boat before 1 January 2014. This applied to about 30,000 people referred to as the ‘Legacy Caseload’ – because their visa status had not been resolved (see further detail in the explanatory note below). Fast Track replaced the previous refugee determination process under the Administrative Appeals Tribunal. As one of several punitive measures to deter boat arrivals, the objective of Fast Track was to reduce the success rate of claims for asylum. The statistics show that a higher proportion of people have been denied refugee status. Before Fast Track was introduced:

* *people from Afghanistan and Iran were 5 times more likely to get a positive decision*
* *people from Sri Lanka were more than 10 times more likely to get a positive decision*

Advocates believe that many people have been unfairly denied refugee protection under Fast Track and would be in danger if forced to return to the countries they fled.

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Further detail here:[**Kaldor Centre factsheet on RSD & Fast Track processes**](https://drive.google.com/file/d/1-3UxUtALYFT8G6pK-Kr1Zyq-akpFoRVG/view?usp=sharing)

**What is unfair about the Fast Track process?**

Application process does not provide for a thorough assessment process:

* Complex application forms in English only, with no legal support or interpreters provided. Without these supports many people cannot not provide the necessary information to support their claims
* Once submitted, it is not possible to add further information to support the claim for refugee protection
* The Department of Home Affairs makes the initial decision and may not always be objective.

Limited Merits Review

* The Immigration Assessment Authority (IAA) was set up to review negative decisions by the Department, but usually only reviews documents. It cannot consider any new information.

Court appeals processes are inadequate

* Appeals can only be made in the courts, but the courts can only rule on whether correct procedures were followed to make decisions – they cannot consider the merit of the claim for refugee status.

Long waiting times (Fast Track is not fast)

* People had to wait for an invitation from the department before they could submit their application – some people waited years for this, all the time on a Bridging visa. Some people in this situation had no work rights or access to Medicare.
* Many people wait years for a court date to appeal negative IAA decisions, and the Court processes can take months or years.
* If the appeal is unsuccessful, people are often left with no visa, and no work rights or study rights. They live in fear of being deported, even though they may have real fear of being returned to danger.

Under Fast Track around 7,000 individuals and families have been refused refugee protection – most of these people are appealing in the courts. There are nearly 9,000 people who are negatively affected by the Fast Track process. Many have been in Australia since 2012 and have successfully settled in our communities. They need access to a fair process, and they need pathways to permanency to end the long years of uncertainty.

**In opposition Labor condemned the Fast Track process as flawed and unfair:** The The [ALP 2019 Policy Platform](https://parlinfo.aph.gov.au/parlInfo/download/library/partypol/6499342/upload_binary/6499342.pdf;fileType=application%2Fpdf#search=%22library/partypol/6499342%22) stated that ‘the existing fast track assessment process under the auspices of the Immigration Assessment Authority and the limitation of appeal rights does not provide a fair, thorough and robust assessment process for persons seeking asylum. Labor will abolish this fast track assessment process.’ (p191)

The Platform also stated that Labor would ‘ reinstate the Refugee Review Tribunal and abolish the Immigration Assessment Authority’ . which would “allow for procedurally fair, simple, affordable and accessible processes and procedures, including in relation to adverse credibility findings, for the review of refugee related decisions.”

Labor has committed to a new system of assessment under the soon to be established Administrative Review Tribunal. See update [Administrative Review Reform Update: 12 May 2023 (ag.gov.au)](https://comms.external.ag.gov.au/v/110304/1001582/email.html?k=pqtxRMjrFi4iC4SVQKxcN3FAQdUGJhMtoDgz9OvCcMM). However, the new assessment process will only apply to around 1,300 people who, having waited for more than 10 years, still have not had a first decision on their refugee status, under the so-called Fast Track system. It will not provide for anyone who has been denied refugee protection under Fast Track.

**Why is the situation more urgent Now?**

* There is no proper review process for people denied refugee protection under Fast Track
* In March 2024 the Labor Government proposed legislation to force people who do not have refugee status to be returned to the countries from which they fled – even if they have genuine fears of persecution there. If this becomes law, over 7,000 people who have been denied protection under Fast Track could be deported or jailed.
* After 10 years living and working in Australia, individuals and families need the certainly of permanent visas – not more years of limbo, or possible deportation.

**What advocates for Refugees are calling for:**

* A fair and thorough process to reassess the protection claims of people subjected to the “Fast Track” process who are from countries where there has been significantly worsening of the political and social situation for certain groups. These countries include Myanmar (Burma), Iran, Afghanistan, Sudan and Sri Lanka
* Allow people found not to be refugees to apply for other permanent visas
* Keep families together by allowing people who have married an Australian citizen or permanent resident and those who have Australian born children to apply for a permanent visa.
* Grant work rights, tertiary study rights and access to Medicare to all people seeking asylum while their claims are being assessed, including during and after any appeal process.
* Ensure that those people who have been refused protection under the “Fast Track” process are not subjected to deportation under the proposed Migration Act Amendment Bill which is due to return to the Senate in June.

**What can we do?**

* Write letters/emails/ phone your local Federal Member of Parliament and South Australian Senators to tell them you want to see a fair and thorough process to reassess the claims of those people on Bridging Visas who were refused protection under the “Fast Track” process, and alternative pathways to
* Visit your local MP/Senator to discuss why you want both reassessment of refugee claims for those who were denied refugee status under the “Fast Track” and an assurance that these people would not be subject to deportation if the proposed Migration Act Amendment Bill is passed through Senate.

**More information**

If you want to know more about the Fast Track process and the impact it is having on refugees in Australia, see below:

[WAVE   Submission to Senate Inquiry on the Deportation Bill](https://www.aph.gov.au/DocumentStore.ashx?id=cec6953f-07ad-45e2-80d0-690395945745&subId=755915)  (Refugee Women who walked from Melbourne to Canberra in 2023)

[ASRC factsheet People subjected to Fast Track March 2024](https://drive.google.com/file/d/1nLO4qBMa18mx1f5SIsAOng3YRrcPdcJC/view) *(figures from Department of Home Affairs, UMA Legacy Caseload,* 31 January 2024*)*

[Fast tracking statistics - Refugee Council of Australia](https://www.refugeecouncil.org.au/fast-tracking-statistics/) A good explanation of the Legacy Caseload and Fast Track process, with statistics

Also [Kaldor Centre factsheet on RSD & Fast Track processes](https://drive.google.com/file/d/1-3UxUtALYFT8G6pK-Kr1Zyq-akpFoRVG/view?usp=sharing)

**Explanatory Note: What is the Legacy Caseload?**

Reference:[Aust Human Rights Commission report 2019](https://humanrights.gov.au/sites/default/files/2019-07/AHRC_Lives_on_hold_2019_summary.pdf)

The Legacy Caseload is a group of approximately 30,000 asylum seekers who arrived in Australia by boat prior to 1 January 2014 and were permitted to remain in Australia in order to lodge applications for substantive visas but had not had their status resolved by this date. People in the Legacy Caseload come from many countries of origin, including Afghanistan, Bangladesh, Burma (Myanmar), Iran, Iraq, Lebanon, Pakistan, Somalia, Sri Lanka, Sudan and Vietnam. A significant number are stateless.

Due to a number of changes to legal and policy settings since 2012, asylum seekers in the Legacy Caseload are treated differently from other groups of asylum seekers. They have also faced lengthy delays in the processing of their visa applications.

Of the 31,000 in the Legacy Caseload, around 19,000 people were granted TPVs or SHEVs under Fast Track, and these people are now getting permanent visas – this was a Labor election commitment. Around 9,000 people subject to Fast Track are ‘left behind’ without certainty – because they are either

* Yet to receive an initial decision
* In an appeals process
* Have been denied at appeal

The remainder have returned voluntarily, been deported, or died in Australia.