



12 April, 2024

**Re: Multicultural Youth Advocacy Network (Australia): *Submission to the inquiry on the Migration Amendment (Removal and Other Measures) Bill 2024.***

Dear Committee,

Multicultural Youth Advocacy Network Australia (MYAN) welcomes the opportunity to make a submission to the inquiry on the Migration Amendment (Removal and Other Measures) Bill 2024.

### **About us**

MYAN is the national peak body representing the rights and interests of young people aged 12-24 from refugee and migrant backgrounds. MYAN works in partnership with young people, government and non-government agencies at the state and territory and national levels to ensure that the needs of young people from refugee and migrant backgrounds are recognised in policy and practice. MYAN provides expert policy advice to government, undertakes a range of sector development activities, and supports young people to develop leadership and advocacy skills.

MYAN acknowledges the traditional custodians upon the lands on which we work and pay respect to their Elders past and present. We acknowledge that Sovereignty was never ceded and recognise that this land was, is, and always will be Aboriginal Land.

### **About this submission**

**MYAN is recommending that this bill not be passed in any form.** On behalf of the refugee and migrant youth we represent across Australia, we do not support measures that could lead to the increased detention or accelerated deportation of refugees and asylum seekers, and we have deep concerns about the consequences of the measures contained in this bill, including how they could directly impact the community of young people we work with. We also wish to express our concerns about the speed of, and lack of consultation in, the policy development process for this bill.

Though initially these laws would apply to those individuals in immigration detention holding a Bridging Visa R, we have concerns regarding their potential application to the approximately 9,000 asylum seekers on bridging visas who were denied refugee status under the 2014 Coalition government's "fast-track" process.

MYAN, together with our partners in the fields of migration and settlement, have previously welcomed the Labour government's constructive actions with regards to migration and settlement, including the discontinuation of the temporary protection policy, pledges to enlarge Australia's refugee program, and investments aimed at making the process for obtaining protection visas more efficient and equitable. However, we oppose this bill on the grounds the measures proposed are incompatible with Australia's non-refoulement obligations, the right to liberty and the protection of the family.

On behalf of the young people we represent, MYAN champions the importance of fair and compassionate treatment of migrants, refugees, and asylum seekers in accordance with international human rights standards, and encourage collaboration between the government and the migration and



settlement sectors to identify solutions together. A balanced approach that safeguards the rights and well-being of asylum seekers, refugees, and migrants while addressing immigration concerns is essential for fostering a supportive and inclusive Australian community.

**MYAN's key concerns with this bill are as follows:**

***Risk of family separation.*** The Bill allows for the separation of families by requiring compliance with removal directions, regardless of the impact on family members. This includes Australian citizens forcibly separated from their parents because the parents would be coerced to return.

***Coercion of migrants and refugees.*** It would give the minister the power to force people to do things that would facilitate their deportation, potentially to a country where they fear persecution or significant harm.

***Criminalisation.*** Putting people in prison for at least 1 year and up to 5 years will not coerce them into returning to countries where they risk persecution or death (some of these people have been in detention for 10 years already), it will only extend and worsen their suffering.

***Reversal of protection findings.*** Allowing the Minister to decide that a person who was previously found to be a refugee is no longer owed protection. This would allow the person to be deported to the country they fled from.

***Imposing a travel ban.*** It would give the minister the power to ban entire countries of people from applying for a visa which is discriminatory, excluding people based on their nationality. This has the potential to separate families, deport people back to countries where they may face persecution, and other profound and far-reaching impacts on young refugees.

***Extreme powers that it gives a single minister.*** If passed, these laws would allow the immigration minister to decide which countries are "removal concern countries" and therefore prevent people from those countries from entering Australia.

## **MYAN's response to the inquiry on the Migration Amendment (Removal and Other Measures) Bill 2024.**

MYAN is deeply concerned that the bill's provisions, which are designed to enhance the government's ability to remove non-citizens who are deemed not to meet the country's immigration criteria, could inadvertently heighten the vulnerabilities of already marginalised groups of migrants and refugees seeking asylum, contravene Australia's obligations under the Refugee Convention and exacerbate racism, discrimination and xenophobia. In particular:

**Family separation.** The Bill allows for the separation of families by requiring compliance with removal directions, regardless of the impact on family members. This includes Australian citizens forcibly separated from their parents because the parents would be coerced to return. Young people, especially minors, could find themselves at risk of being separated from their parents or guardians if the latter's visas are cancelled or expire potentially infringing upon the rights of the child and creating increased vulnerability within the family.



Parents and other key family members are a critical and valuable emotional, social, and economic support for young people. Connection to family is vital to the health and wellbeing of young people, and their capacity to settle well and to become active participants in and contributors to Australian society. Such separations can lead to significant emotional distress and instability, disrupting the social and educational development of young individuals. The fear of separation could also discourage families from seeking help or engaging with authorities, further isolating them.

**Coercion of migrants and refugees.** The bill would give the minister the power to force people to do things that would facilitate their deportation, potentially to a country where they fear persecution or significant harm or risk a prison sentence and could lead to situations where individuals feel compelled to accept unfavourable decisions or to refrain from exercising their rights fully for fear of reprisal or accelerated removal proceedings.

The bill's emphasis on expedited removal processes could compromise the principle of non-refoulement, a cornerstone of international refugee law that prohibits the return of individuals to countries where they may face persecution or serious harm. In the rush to enforce removals, there is a risk that thorough and fair assessments of asylum claims may be sidelined, leading to situations where people are coerced into accepting voluntary departure to avoid prolonged detention or are removed without their claims being adequately considered.

**Criminalisation.** Incarcerating individuals for a duration ranging from one to five years does little to persuade them to return to countries where they face the threats of persecution or death, especially when some have already endured detention for a decade. Such actions merely prolong and intensify their distress. It is inhumane to criminalise individuals caught in these dire circumstances, as it only contributes to further suffering. Imposing any form of imprisonment under these conditions is excessively harsh and perpetuates Australia's policy of indefinite detention, which has inflicted pain for numerous years. Indefinite detention is not just a denial of freedom, it's a denial of hope, dignity, and humanity. Detention and deportation are traumatic experiences that can disrupt a young person's development and their ability to integrate into and contribute positively to society.

Moreover, the bill exacerbates the situation by further criminalising these individuals, deepening the injustice and undermining their rights and protections under international law. Additionally, bill's emphasis on removal and visa refusal/cancellation could fuel discriminatory attitudes, racism and xenophobia in the Australian community. By potentially casting a wide net over what constitutes grounds for visa cancellation or refusal, the legislation may stigmatise refugees and asylum seekers, exacerbating existing prejudices and lead to increased discrimination against migrant communities. This could manifest in various ways, including reduced employment opportunities for individuals from certain backgrounds, social ostracisation, or even verbal and physical attacks.

**Reversal of protection findings.** The bill allows the Minister to decide that a person who was previously found to be a refugee is no longer owed protection would allow the person to be deported to the country they fled from. The reversal of refugee protection findings poses a significant risk of contravening Australia's responsibilities outlined in the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol. It threatens the principle of non-refoulement, undermines the rights



granted to refugees, and could violate the norms of due process and fairness, thus weakening the global commitment to protect those fleeing persecution and harm.

It also contributes to an environment of insecurity and uncertainty instilling a sense of instability and fear among young migrants and refugees, thereby exacerbating feelings of anxiety and trauma that many already face. The stress and uncertainty can have far-reaching implications on their mental health, educational achievements, and overall well-being. Those living in fear of detection or removal may be less likely to enrol in education or seek essential health and welfare services. This can lead to a lack of formal education, poor health outcomes, and limited opportunities for future employment and integration into the community. Moreover, the bill's focus on removal may divert resources and attention away from community support and integration initiatives that could otherwise benefit young migrants and asylum seekers.

**Imposing a “country ban”.** The bill would give the minister the power to ban entire countries of people from applying for a visa which is discriminatory, excluding people based on their nationality. Such bans would restrict the movement of individuals between nations, thereby altering the trajectory of many young lives. This has the potential to separate families hoping to reunite in Australia, resulting in prolonged separation periods. The imposition of a “country travel ban” can have profound impacts on young people, affecting them in ways that span the personal, educational, and professional spheres of their lives. The stress, uncertainty, and emotional and psychological toll on families, particularly on children and young people waiting to be reunited with their loved ones, cannot be understated.

The proposed legislative changes granting the immigration minister significant authority to designate "removal concern countries" could have profound and far-reaching impacts on young refugees. Firstly, it introduces a high level of uncertainty and unpredictability into the lives of these individuals. Young refugees, already navigating the complexities of displacement and integration into a new society, may find themselves facing heightened anxieties concerning their future and the stability of their living situation in Australia. The fear of separation from family members, who might be deported or denied entry based on the unilateral decisions of a single minister, could exacerbate feelings of isolation and trauma among young refugees. Such a scenario undermines the sense of safety and belonging that is critical for the healthy development and well-being of young individuals.

Moreover, this policy could lead to the deportation of young refugees to countries where they may face imminent danger, persecution, or violence. This not only contravenes international human rights principles but also places these individuals in harm's way, potentially undoing the progress they have made in their personal development and integration into their new communities. The psychological impact of living under such a precarious threat can be devastating, leading to increased levels of stress, anxiety, and long-term mental health issues.

Lastly, the impact on long-term residents, including young refugees who have spent a significant portion of their lives in Australia, could be particularly harsh. These individuals, who have established deep ties to their communities, face the possibility of being uprooted from their lives based on the discretionary powers of the immigration minister. This could disrupt their education, employment, and social networks, severely impacting their future prospects and well-being.



Further, a ban contributes to a sense of loss or disconnection from their cultural roots and disrupts opportunities for international study, exchange programs, and internships, which are invaluable for personal growth, cultural exchange, and language acquisition. It also has potential negative implications for Australian universities, particularly in terms of international student enrolment.

**Extreme powers that it gives a single minister.** We are concerned that the opaque nature of decision-making under such enhanced ministerial powers could erode public trust in the immigration system. Without clear guidelines or the requirement for detailed public reasoning behind decisions, there is a risk that policy implementation could become inconsistent, leading to perceptions of bias or unfair treatment. This could not only affect the individuals directly involved but also impact broader community relations and Australia's reputation on the global stage regarding its commitment to fair and humane treatment of migrants and asylum seekers. This is an extreme overreach of power and raises crucial questions about the balance of power, the protection of human rights, and the transparency and fairness of the immigration process.

These concerns highlight the need for careful consideration and debate among policymakers, legal experts, and sector experts, and consultation with the public to ensure that any changes to the immigration framework are conducted in a manner that respects democratic principles and international human rights obligations.

I hope the above assists the Committee in its inquiry.

Yours sincerely,

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National Manager, MYAN Australia