

Left out:

How the Migration Act must protect and provide for Young Asylum Seekers.

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After witnessing first hand the trauma experienced by Young Asylum Seekers within the Immigration system I wish to draw attention to the specific needs of this age group.

These needs must be recognized, and provided for within the Migration Act.

Whilst the current Migration Act provides for and recognizes the needs of children, and clearly defines the difference between minor and adult, it fails to acknowledge that the vulnerability of youth continues past 18.

The Migration Act must recognize the difficulties faced by Young People as a specific age group, and provide the protection and help they require as Young Asylum Seekers.

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1) SUMMARY

The 1958 Migration Act defines a minor as: “a person under the age of 18” and provides specific rights to protect and provide for vulnerable children.

However, Evidence from a number of sources, including Child Development Psychologists, Refugee Counselling Services and Asylum seekers themselves, has shown that vulnerability as a young person does not cease upon legally entering adulthood at the age of 18.

- 1) I therefore propose that a classification “young person” be considered, in order to provide Young Asylum Seekers with the protection and the support they need.*
- 2) Young People Under 20 should not be held in Detention for over 3 weeks*
- 3) The decision to hold young people **over** the age of 20 in Detention should be made on a case by case basis with their mental health, independence and vulnerability as the deciding factor. They must be reviewed for mental wellbeing, and evidence must be provided to prove the need to detain them in Detention Facilities for over 3 weeks.*
- 4) All young people under 25 should be provided with comprehensive mental health care and legal aid and a cap must be placed on time spent undergoing interviews.*

Legal classification cannot take into account individual circumstances and therefore cannot ensure that all vulnerable young people are adequately protected and cared for within Australia's Immigration Framework.

The Migration Act must be amended to ensure the rights of the vulnerable are protected.

2) Unaccompanied Young People

When reading the below report it must be taken into account that the majority of Young Asylum Seekers arriving in Australia are unaccompanied.

This deprives them of the family support that they need to endure Mandatory Detention, as well as the adult help and guardianship in navigating the Immigration System.

Australia's Immigration system must take this into account and provide the assistance unaccompanied young people are without.

3) Supporting Young Asylum Seekers and their vulnerability to Depression and Mental Health Problems

The current Migration act fails to recognise that Young People *over* the age of 18 still remain vulnerable to Mental Health Issues and Depression.

It is of great concern that the current Act provides only limited protection and support for children and unaccompanied "minors"- people under 18 years of age.

Vulnerability as a Young Person continues past the age of 18, regardless of status as a Legal Adult, and this must be recognised with the provision of support for over 18s.

The research cited supports that "Young People" remain vulnerable through the early "Teens" right up to the mid 20s.

Government Initiatives

The existence of Government Supported Initiatives such as "Y-BLUE", established to deal specifically with "Youth Mental Health Issues" for Australian teens as well as Adolescents **OVER 18**, recognises that the problems of Youth continue past Legal Adult hood.

The Organisation cites the ages **16-24** as prime times of vulnerability to mental illness, supporting the suggestion that Young Asylum Seekers over 18 are still in need of extra support.

Information Gathered from this Australian Government Mental Health Initiative states that:

"Depression and anxiety are among the most common mental health problems experienced by young people. Often, the symptoms aren't recognised and therefore young people don't get the help that's needed." [1]

Further more, Y Blue states that "One in five young Australians experience depression each year, and more than half of those aren't getting the professional help they need to get through it." [2]

Considering that 1 in 5 Young Australians living in a democratic State free from persecution are likely to suffer from Depression each year, it is highly likely that Young Asylum seekers fleeing persecution and violence in their countries of origin will be at

risk of severe depression and mental health issues.

A second organisation supporting Young People, Established and funded by the Commonwealth Government of Australia to provide extra assistance for young people aged **12 to 25** years in the area of Mental Health. This organisation has reported that:

“Among young Australians aged 12-25 years, depression is the most common mental health problem . Around 1 in 4 young people will have had a depressive disorder by the end of their adolescence .” [3]

These Government Initiatives for Youth Mental Health recognise the additional needs of Young people. That the Australian government displays a commitment to the special needs of Young People through initiatives which support people over the age of 18 shows that Young People remain vulnerable for a much longer period than the current act recognises.

The recognition of these needs displayed through these National Initiatives *must* be extended to Young Asylum Seekers.

Psychology of Youth and Adolescence

Developmental Psychologist Peter Aggleton states that “ the period from 12 to 20 years of age as adolescence, highly charged and tumultuous stage of development...

Anxiety and depression are common symptoms, youth and adolescence are times where emotions run high...Drops in Self Esteem, Poor mood and depressive symptoms in adolescence are associated with a cognitive style which includes automatic negative thoughts, hopelessness and a tendency towards rumination over problems and worries”[4]

Considering that Young People living in *stable conditions* are faced with such emotional issues and tendencies towards mental health problems, it must be recognised that Young Asylum Seekers face unimaginable levels of stress, confusion, depression and vulnerability.

The experience of Detention and its negative effects on Mental Health

The following are extracts of a conversation held with an 18 year old Detainee in an Australian Detention Centre this year. The Detainees details will remain undisclosed.

“I sleep all day, don’t like to get out of bed”

When asked why the Detainee replied

“It is too noisy during the day, too many people shouting. Also, I don’t feel like doing anything any more. I stopped going to class (English and Computers). So have (other 18 and 19 year old Detainees). I don’t feel like doing anything. My caseworker ask me “are you relaxed here?” how can you be relaxed here? How can you be happy here?”

The Detainee informed me that all the Young Detainees stay in bed throughout the day, refuse to eat, talk to other detainees or staff, stopped partaking in any activities, all symptoms of depression listed by the World Health Organization report “Mental Health for Refugees”

Based on the above research, it can be concluded that Young People are at a significant risk of Mental Health Issues due to problems associated with Adolescent Development from the early teens up to the mid 20s.

Whether it due to brain maturation, hormonal adjustments, or mental and emotional development, The Teens and Early Twenties are already times of turbulence *without* the added stresses associated with Seeking Asylum.

Youth is a time of vulnerability to Mental Health Issues which continue regardless of Legal Status as an Adult.

This must be considered when dealing with Asylum Seekers who still fall under the category of “youth”, even though they may be over 18.

4) Young Asylum Seekers and Mental Health Issues

The World Health Organization, The UNHCR and leading Psychologists within the field all share similar views regarding the need for protection of Young Asylum Seekers based on the understanding that Young Asylum Seekers are at a heightened risk of severe mental health issues. Young Refugees are extremely vulnerable to mental health issues.

The current Migration Act fails to provide Young Asylum Seekers with the support they need to recover and continue to develop the emotional and life skills they need.

Government Initiative Y Blue states:

“A difficult experience, such as the loss of someone close to you, may lead to depression. Or it might make you more likely to have depression if other things go wrong when you’re older. Other negative things – like being abused or bullied, feeling that you are doing badly at work or school, or having bad experiences with your family (especially when you were young) – can all increase your chance of getting depression.” [2]

These statements on youth depression can be applied to young asylum seekers: The situations faced by Asylum Seekers in past trauma and during Detention certainly classify as the “difficult experiences” or “negative things...or bad experiences” which “Y Blue” state heighten a young person’s chance of suffering from Depression and Anxiety. The Victorian Foundation for Trauma and Torture survivors found that 7 out of 10 Refugees were victims of torture or trauma and states:

Refugees have a relatively high rate of certain physical and mental health problems compared with other migrants and people born in Australia, arising from negative influences on their health before, during and following their forced movement...

It follows that a high percentage of Young Asylum Seekers will therefore be at a significant risk of Depression and Mental Health Problems...

Given the pre-arrival backgrounds of refugees in Australia, a significant proportion of refugees will require specialist individual and family services.” [5]

This must be considered in conjunction with the above information on Youth Mental Health. The Mental Well being Issues which potentially face an Asylum Seeker, combined with the mental health issues typical of Adolescence and the lack of coping skills and vulnerability of youth, Young Asylum seekers face a daunting and potentially traumatizing level of stress, and an overwhelming risk of poor Mental Health. The lack of recognition of this, and the lack of provision for Young Asylum seekers must be addressed.

5) Development Issues caused by Lack of Support for Young Asylum Seekers

A publication by the Transcultural Mental Health Centre [6] raised concerns about the Detention of Young People as damaging to mental health and emotional Development. It states “The Australian Practice of Detention of...young people is likely to have both immediate and longer term effects on physical, emotional and psychological health.”

A report on the immediate and long term impacts of trauma on young people and the implications of placement in detention centres draws attention to the possible negative outcomes of Detention. The Report states that the brain is not fully developed by the age of 18 and that the potentially traumatic experience of Detention, can cause long term negative effects, such as a tendency towards anxiety, depression, problems with anger management, self-harming behaviours and hyper vigilant coping mechanisms.

The Report also raises the concern that Mental Health issues are not able to be resolved in Detention stating “For children and young people who are asylum seekers/refugees it is likely that placement in Detention Centres strips them of the protective factors necessary to allow them to recover from trauma and to build resilience” .

Survivors of trauma have a high chance of recovery if provided with a stable environment which provides the support needed (for instance, within the community)

“However, as long as young people who have been traumatised remain in detention, where factors that allow them to stabilise are absent, they are not able to recover, let alone develop life skills and resilience.” [7]

The Detention of Youth over the age of 18 and the lack of provision of services and support for this particular age group is therefore potentially damaging not only to their current state of mind and mental welfare, but to their emotional and mental development, their future abilities and mental wellbeing.

The Migration Act must provide protection for Young People, and recognise Australia’s moral obligation to protect them.

6) Abilities of Young Refugees

As the above report shows, Young Refugees are already dealing with a number of complex issues and problems. This has the potential to greatly impair their ability to comprehend and manage the many situations which face asylum seekers today, such as visa application processes. The below research supports the view that Young Asylum Seekers may not have the mental resources and abilities to cope with such stresses additional to those they already face.

Stress and Intimidation in Legal Proceedings (Immigration Processes) an extract from a Human Rights and Equal Opportunity Commission Report. **[6]**

21. Legal proceedings can be a stressful and intimidating experience for many people. This is more likely to be the case for applicants in migration cases because the Australian legal system may be completely different to that in their country of origin.
22. In addition, for most applicants the outcome of tribunal proceedings is a matter of vital importance. Indeed, for some, a tribunal's decision may have life and death implications. Placed under such extraordinary pressures, an applicant's ability to best represent their case may be impaired.
- 28 Given that the majority of refugee and humanitarian applicants are fleeing situations of state-sanctioned persecution, corruption and abuse, some applicants may feel disempowered and vulnerable in the legal process.

Considering the above relates to Adult Asylum Seekers, Young Asylum Seekers find the legal processes of Immigration incredibly Daunting.

The legal processes related to Immigration and Refugee status are potentially overwhelming and incomprehensible to Young Asylum Seekers and have been described by Young Detainees as "very confusing"

In addition they referred to the endless hours of initial interviews (one was held for up to 7 hours) upon arrival in Australia as "scary" and "frightening".

7) Legal Help- Abilities of Young Refugees

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- 28 Given that the majority of refugee and humanitarian applicants are fleeing situations of state-sanctioned persecution, corruption and abuse, some applicants may feel disempowered and vulnerable in the legal process.

Given that the above relates to ADULT Asylum Seekers, it can be assumed that Young Asylum Seekers face

8) Security concerns

The issue of security is often cited as the need to detain Asylum Seekers in Detention Centres.

However, the UNHCR Report on Australias Immigration system suggested :

(On Detention) While these aspects of the Australian system remain in place, their adverse impacts upon refugees and asylum seekers may nonetheless be mitigated by sensible and humanitarian focussed administration of certain existing discretionary powers. If those powers are administered in this way, Australia's protection arrangements are capable of operating in a manner more consistent with international standards and best practices. This could be achieved without undermining Australia's national security or its legitimate interests in preventing abuse of its protection arrangements.

Additionally, since the Introduction of new immigration values, Instances of Community Detention have drastically increased, with positive results, demonstrating that the length of detention is mostly unnecessary.

9) Amendments:

In addition to the Category “Minor”, the creation of a new category to protect Young People should be considered.

DETENTION

Under 20s

In consideration of the above risks to mental health and development,
Young people under the age of 20 must not be held in Detention Centres for over 3 weeks.
This is in line with the Governments stated value that Detention be used only as a last resort, and that Mandatory Detention be used for security purposes only.

Young People under 20 must only remain in Detention for a maximum of the 3 weeks required for Health and Security Checks and must then be settled in the Community.

Over 20s

In order to detain Young people *Over the Age of 20* for more than 3 weeks, the Asylum Seeker in question must be reviewed by an Independent Mental Health Care Professional, taking into account well being, vulnerability and Mental Health, and sufficient evidence must be provided before Detention is allowed.

Additional note:

Young People and Minors should not be detained in any sort of facility like “Phosphate Hill” but should be settled into the community.

HEALTH CARE

All Asylum Seekers under the age of 25 must be provided with comprehensive mental health care within a stable environment.

The Act must outline specifically that Young People under 25 be provided with access to youth orientated health care.

LEGAL AID

Young Asylum Seekers need to be provided with the full legal assistance that is afforded to minors. Their lack of experience and understanding, as well as their potential fragility, must be taken into consideration at all times.

They must be provided with full assistance and explanation.

furthermore, in respect for their vulnerability, they must not be interviewed for such extensive lengths of an interrupted time.

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