

Settlement Council of Australia

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Committee Secretary
Senate Legal and Constitutional Affairs Legislation Committee
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MIGRATION LEGISLATION AMENDMENT (REGIONAL PROCESSING COHORT) BILL 2016

The Settlement Council of Australia (SCoA) is the national peak body for settlement, representing over 80 agencies providing settlement support services directly to people of refugee and migrant backgrounds across Australia. SCoA members are spread across the country in every major metropolitan and regional settlement area.

SCoA welcomes the opportunity to provide input into the Senate Legal and Constitutional Affairs Legislation Committee's inquiry into the Migration Legislation Amendment (Regional Processing Cohort) Bill 2016 ("Bill").

SCoA recommends that the Bill **should not** be passed, for the following reasons:

- the Bill impacts the ability of Australia's settlement programme to deliver successful outcomes for humanitarian entrants because the bill emphasises negative public sentiment and fosters the perception that refugees and humanitarian migrants generally are unwelcome in Australia;
- the long-term effect of the Bill will be to deny Australian citizens and permanent residents the ability to be reunited with their family; and
- the Bill devalues the positive contributions that refugees can make to Australia.

Impact on Settlement Services for those already in Australia

SCoA is concerned that laws that emphasise negativity and demonise particular groups damage the settlement prospects of the humanitarian community generally; they contribute to negative public sentiment and impede efforts within the settlement sector to build social cohesion and harmony.

Our membership is comprised of the vast majority of organisations delivering federally funded settlement programs to recently arrived migrants and refugees. These organisations have direct access to recently arrived migrants and refugees, and witness first-hand the challenges, as well as the successes, faced by those people in Australia.

In this context, SCoA members regularly report that the fragile settlement process can be directly impacted by government policy, legislative changes and public announcements which emphasise negativity and promote disharmony. The Bill does just that, by fuelling a discourse around asylum

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seekers and refugees that demonises a particular group and casts doubt over the contribution that refugees and humanitarian entrants as a whole can make to Australia.

Despite the Bill's scope being limited to a specific cohort only, SCoA has received anecdotal evidence that the messaging of the Bill and certain uncertainties in its application have caused fear amongst refugee communities already in Australia. This has an impact on those communities, who draw the conclusion that their presence here is unwelcome. The settlement prospects of these people are markedly reduced when they are faced with the message that they are a burden, and that their presence here is contrary to law and/or policy.

SCoA is concerned that for Australia to achieve the best possible settlement outcomes for those refugees and humanitarian entrants settled here, the Bill in its current form should be abandoned.

The Bill's impact on Family Reunion

SCoA is concerned that the Bill will have the potential to block the reunification of families who have been separated during a refugee crisis. The Bill in its current form and retrospective application will effectively deny the ability of Australian permanent residents and citizens to be reunited with members of their families where those members are currently on Nauru or Manus Island.

SCoA is aware of instances where families have been separated, with some members currently in Australia, and others who have been sent to Nauru or Manus Island and who are therefore affected by the Bill.

There is considerable evidence that the reunification of families separated during a refugee crisis is a crucial element to successfully settling a person of refugee background into their new community.¹ Family separation has been shown to exacerbate previous trauma experiences. It is difficult for newly arrived refugees to cope with the uncertainty of whether their family are safe or may ever be able to join them.² All of this can lead to difficulties settling and significant mental health problems.

SCoA therefore urges that, in line with Australia's international commitments to preserve and protect the family unit, and in order to ensure the best possible outcomes in our settlement program, the Bill should not be passed.

Refugee Contributions to Australia

The imposition of a lifetime ban perpetuates the misconception that once a person is a refugee, they remain one for the rest of their life. SCoA suggests that one only needs to look at the countless examples of former refugees who have successfully settled in Australia, and who include politicians, business leaders, doctors, engineers, scientists, lawyers and many more, to understand that this is simply not correct.³

To impose a lifetime ban denies Australia the opportunity to benefit from the contributions those same people can make in the future, either as residents or even simply as visitors.

¹ For example, see Lewig, K., et al., 2009, "The Working with Refugee Families Project" *Australian Centre for Child Protection*, University of South Australia, September 2009.

² Wilmsen B. 2013, "Family Separation and the Impacts on Refugee Settlement in Australia", *Australian Journal of Social Issues*, vol. 48, no.2, pp. 241-62.; Savic M., Chur-Hansen A., Mahmood MA; Moore V. 2013, "Separation from family and its impact on the mental health of Sudanese refugees in Australia: a qualitative study", *Australian New Zealand Journal of Public Health*, vol. 37, no. 4, pp. 383-8.; and Staver, A. 2008, *Family Reunification: A Right for Forced Migrants?* Working Paper Series No. 51, Refugee Studies Centre, University of Oxford.

³ For example, see the well-publicised stories of former refugees such as Doctor Munjed Al Muderis; business man Huy Truong and South Australian Governor Hieu Van Le.

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The government has suggested that any unfavourable consequences of the Bill can be addressed by utilising the Minister's discretion to waive the lifetime ban on a case-by-case basis. SCoA believes this creates an unnecessary administrative burden and increases the complexity of decision-making.

SCoA now understands that many of the people affected are likely to be resettled in the United States of America.⁴ It is perverse that Australia would seek to deny future US citizens, or citizens of other resettlement countries, the right to enter Australia, merely as a punishment based on the mode of arrival to Australia that those people chose at a most vulnerable and desperate time of their lives.

If those people have been accepted as refugees and re-settled in a third country, then their former refugee status should have no bearing on any future application. SCoA suggests in this regard that other safeguards exist within the Migration Act and associated regulations to ensure that any person seeking to enter Australia at any time in the future meets specific criteria relevant to the visa they apply for at that time. For example, an applicant for a Visitor Visa must prove that they are indeed a genuine tourist, and an applicant for a Partner Visa must prove that their relationship with an Australian citizen or permanent resident is genuine, when assessed against a number of criteria.

Recommendation:

For the above reasons, SCoA recommends that the Bill should not be passed.

SCoA would welcome the opportunity to work with the Australian Government to ensure the best possible settlement outcomes are achieved for all humanitarian arrivals, irrespective of the method of their arrival.

⁴ Though we accept that this is not yet a formal arrangement and does not necessarily apply to all persons currently located on Nauru and Manus Island.