30 January 2017

Submitted via email to migration@aph.gov.au

Submission to the Joint Standing Committee on Migration on migrant settlement outcomes.

We welcome the opportunity to contribute to the Joint Standing Committee on Migration on migrant settlement outcomes.

This submission brings together the views of scholars from across the School of Social Sciences at Monash University, specifically the Monash Population, Immigration, Social Inclusion Focus Program, Monash Centre for Social and Population Research (CSPR), the Border Crossing Observatory, Monash Gender and Family Violence, and the Monash Gender, Peace and Security Research Centre, whose past and current research informs the concerns and issues raised in this submission.

We would welcome the opportunity to discuss this submission or our wider research on migrant settlement and social cohesion further with the Committee.

Kind regards,

Assoc. Prof. Marie Segrave, *Border Crossing Observatory, Monash Gender and Family Violence, Monash Population, Immigration, Social Inclusion Focus*

Dr Lesley Pruitt, *Monash Gender, Peace and Security Research Centre*

Assoc. Prof. Rebecca Wickes, *Monash Population, Immigration, Social Inclusion Focus Program and the Monash Centre for Social and Population Research*

Assoc. Prof. Leanne Weber, *Border Crossing Observatory*

Ms Rebecca Powell, *Border Crossing Observatory*

Dr Helen Forbes-Mewett, *Monash Population, Immigration, Social Inclusion Focus Program and the Monash Centre for Social and Population Research*

MONASH University
Arts

Our submission

We respond to the Terms of Reference in turn. We are mindful that the Committee is giving "particular consideration to social engagement of youth migrants, including involvement of youth migrants in anti-social behaviour such as gang activity, and the adequacy of the Migration Act 1958 character test provisions as a means to address issues arising from this behaviour". Our submission reflects this focus, but also points to broader areas of concern which we believe are pressing. We have 10 recommendations which we outline before addressing the Terms of Reference. The information that follows underpins these recommendations.

Recommendations

1. **The provision of settlement services must consider the needs of migrant groups and the capacity of the host communities where migrants settle.** Settlement policies and programs are more likely to succeed if the host community context has the necessary infrastructure, capacity and willingness to facilitate successful settlement. In many areas, settlement services are stretched, community resources are limited and the host community is unprepared for the settlement of large numbers of migrants. Understanding the needs and capacities of migrants and the communities in which they settle will allow for the development of tailored settlement initiatives that successfully cater to different migrant groups (humanitarian, skilled, family or student) living in different community contexts (rural, regional, inner city, suburban areas).

2. **Cross-cultural community arts programs for youth should be supported.** Financial support for such programming has been shown to be a sound investment, offering positive outcomes for Indigenous and non-Indigenous youth alongside migrant youth who participate. Such work can build social cohesion and offer migrant youth opportunities to connect with Australian young people and to learn about and understand Aboriginal culture. Programs that include peer leadership while directly including and welcoming migrant youth are particularly useful and should be encouraged. Migrant youth formerly involved in youth gangs and other violent behaviours who have participated in such programming have directly stated that their participation has provided an alternative through offering networks of friends and an outlet for communicating peacefully while gaining respect from peers.

3. **Migrant settlement and family violence must be prioritised.** Settlement services need to be supported and resourced to respond appropriately to family violence, and family violence services need to be resourced to attend to the specific needs of recently arrived migrant women and their families in situations of family violence. Infrastructure is critical to enabling family violence, migrant settlement services and the justice system to work collaboratively. It is also critical that the fears, concerns and expectations of migrant women are better understood, in order for support to be accessed rather than feared.

4. **Enable voluntary take-up of language support for SCV holders:** A small, but significant group of SCV

holders will benefit from English language and cultural awareness tuition which should boost their confidence in navigating the workplace, government services and other aspects of Australian society. Since, like formally recognised permanent migrants, they are legally entitled to make their lives in Australia, there is no legitimate reason to deny them access to services that are provided for other new arrivals, and wider social and economic benefits are likely to follow for the Australian community in the longer term.

5. **Put SCV holders on an equal footing with other long term residents**: Many New Zealand citizens enter Australia with the intention of making Australia their home, working hard and raising their children here. The restricted entitlements currently associated with special category visas are discriminatory and incommensurate with this legal status. This can be remedied by re-instating pre-2001 SCV visa entitlements, and converting all current 'non-protected' SCVs to 'protected' status. Committing resources to removing this form of structural discrimination would offset the socio-economic problems that arise from the trans-generational deprivation experienced by many families, and allow expatriate groups to mobilise their own capacities to support thriving transnational communities.

6. **Provide better support and life pathways for young New Zealand citizens, particularly from culturally diverse backgrounds**: In Australia, young New Zealanders from Pacific Island or Maori backgrounds miss out on the considerable cultural and linguistic support provided within the New Zealand education system. Moreover, many young New Zealanders, whatever their background, experience structural barriers which prevent them from accessing Commonwealth funded tertiary study. At worst, this sends a message that they are not accepted members of Australian society and have no future here. Recent measures to open up access to tertiary education should be extended and fast-tracked. And young people living in Australia on SCVs should be treated on a par with other new arrivals in terms of settlement support specifically directed towards young people (see recommendation 2).

7. **Decision making regarding s501 visa cancellations at both Ministerial and AAT review should be re-weighted away from risk towards human rights of individuals.** Government should consult with the Australian Human Rights Commission and other human rights groups to give increased weight to human rights-based mitigating factors in s501 visa cancellation decision-making to shift decisional weight away from constructing convicted non-citizens as a risk to the Australian community. Greater consideration and decisional weight should be given to the human rights and personal circumstances of the individual including rights to family life, the rights of a child whether they are an offender themselves or the child of a convicted non-citizen (Convention on the Rights of the Child 1989), opportunities for rehabilitation as a fundamental human rights principle as per UN instruments on imprisonment (see for example, International Covenant on Civil and Political Rights 1966, Standard Minimum Rules for the Treatment of Prisoners, 1957), length of residence and ties to the Australian community.

8. **Reinstate the '10 year rule' and the Ministerial Direction primary considerations for long term residents of Australia who are subjected to the character test under s501 of the Migration Act.** In response to the impact amendments to s501 of the Migration Act have had on long term residents of Australia and the

increased number of deportations of convicted non-citizens, we advocate for the re-introduction of the '10 year rule' first introduced by the Hawke Government under the *Migration Act Amendment 1983* under s201. To compliment this, we also advocate for the reinstatement of considerations relating to length of residence and ties to the Australian community to primary level considerations of the *Migration Act 1958 Ministerial Direction* to assess visa cancellation decisions.

9. From an international ethical standpoint, Australia must take responsibility for offending committed by long term residents. Australia must take responsibility for criminal offending within its own jurisdiction particularly in cases where offenders are people who are long term residents. This supports a commitment to rehabilitation as outlined in recommendation 7. The current approach to convicted non-citizens whose visa is cancelled on character grounds under s501 is to prioritise removal from Australia, particularly for those who are serving a prison sentence of 12 months or more. This only supports an 'exporting of risk' of the convicted non-citizen to their country of origin which can then create further risks of criminality in the receiving country and adversely impact on Australia's diplomatic relations with return countries.

10. Develop and implement a risk assessment tool for s501 decision making processes. Where risk remains a key focus of the Ministerial Direction and decision making processes with regards to the removal of convicted non-citizens, a tool that enables better and concise risk assessment is needed for both Ministerial and Administrative Appeals Tribunal decision making on visa cancellations.

Terms of Reference

1. **The mix, coordination and extent of settlement services available and the effectiveness of these services in promoting better settlement outcomes for migrants;**

   a. *Effectiveness of settlement services: regional Victoria study*

A study (Forbes-Mewett and Wickes) examining immigrant settlement in regional Victoria with a particular focus on 'what works' in Greater Shepparton is in its early stages. Forbes-Mewett and Wickes have the cooperation of the Ethnic Council of Shepparton and the project will commence in March. Plans are in place to greatly broaden the scope of the project to take a systematic approach across regional areas in Australia. Early investigation of the topic has revealed that in some small towns successful settlement has been achieved. A case in point is the small town of Mingoola (NSW/QLD border) where successful settlement took place, reportedly in part because the incoming group (with many children) enabled the local school to be saved from closure (ABC 2016b). This suggests that better settlement outcomes result not only from providing settlement services but also from providing for the established community's wishes and needs (Elias and Scotson 1994; Forbes-Mewett, Nyland and Thomson 2013).

b. Effectiveness of settlement services: the case of New Zealand citizens

New Zealand citizens living long term in Australia on Special Category Visas (SCVs) are not entitled to access settlement services. Their visas are technically temporary (requiring renewal on every departure and return) although they permit indefinite periods of residence. Research published by Weber, Segrave and their colleagues (Tazreiter et al 2016) identified that New Zealand citizens of Samoan origin who were long term residents in Australia were often very poorly informed about their limited entitlements and remained confused about their legal status. Most had very little prospect of obtaining citizenship or permanent resident status. DIBP liaison officers based in Sydney who were interviewed for that study believed that Pacific Islanders were less in need of assistance than certain other migrant groups and able to rely on extended families and co-nationals. However, the researchers concluded that Samoan-born New Zealanders (and possibly other groups of New Zealand citizens) experienced significant social, economic and legal disadvantages, due in large part to their visa conditions, which locked them into a status of long term 'denizenship' (Weber et al 2013).

c. Impacts on settlement outcomes for migrants regarding convicted non-citizens subject to s501 of the Migration Act

New Zealand citizens and others who are long term residents of Australia and have not been able to obtain citizenship are in a precarious settlement situation with regards to visa cancellation resulting from serious or at times, less serious but repeated criminal offending. Following the amendments made to s501 of the *Migration Act (*visa cancellation (or refusal) on character grounds) in December 2014*,* persons convicted of a criminal offence resulting in a prison sentence of 12 months or more will mandatorily have their visa cancelled under s501. For convicted non-citizens who do not pass the character test, certain fundamental human rights that should be available to all regardless of citizenship, as well as considerations with regards to their lives lived in Australia, are not upheld. This can include the right to family life and access to children, opportunities for rehabilitation, length of residence and ties to the Australian community. When considering visa cancellation for a prison sentence of 12 months or more this includes any person convicted for multiple offences with a prison sentence of less than 12 months, but where the multiple sentences add up to a period of 12 months or more. The policy can also be applied retrospectively to non-citizens who have served their sentence and are now back in the community.

The '10 year rule' introduced in 1983 under s201 of the *Migration Act 1958,* previously protected convicted non-citizens from deportation if they had been resident of Australia for 10 years or more. This 'rule' was revoked in 1998 with amendments made to character provisions in the *Migration Act 1958*. Further, the previous *Ministerial Direction to the Migration Act 1958* (No. 41 from June 2009- December 2014) introduced two new primary considerations for visa cancellation decision making which concerned length of residence and ties to the Australian community - whether the person was a minor when they began living in Australia, specifying that minors, who have spent their formative years in Australia, have an increased likelihood of establishment of greater ties and linkages to the Australian community, which should be given favourable weight; and, the length of time that the person has been ordinarily resident in Australia prior to

engaging in criminal activity or other relevant conduct. These considerations were relegated to 'other considerations' under the current Direction No. 65 and now carry less decisional weight.

There have been some high profile cases reported in the Australian media regarding visa cancellations under s501 without conviction but on the basis of police intelligence (for example the case involving the visa cancellation and removal of Maria Brown, a Samoan with New Zealand citizenship, removed to New Zealand in March 2009 see, Weber 2013). This has been a particular issue for bikie gang members who are judged to be of bad character on the basis of their association with outlaw motorcycle gangs (see for example the visa cancellation and removal of Shane Martin to New Zealand (Lowrey 2016; ABC News 2016). Non-citizenship and association with an outlaw motorcycle gang and/or threat of criminal offending are used to pre-empt and export risk (Weber and Pickering 2012), or the perception of risk, using the s501 character test.

Since amendments were made to s501 of the Migration Act, there has been a steep rise in the deportation of convicted non-citizens who have served a prison sentence of 12 months or more because they do not satisfy the Minister that they pass the character test (blue line on Graph 1 below). To starkly illustrate the impact of this policy amendment, in the 2013-14 reporting year, 76 visas were cancelled by DIBP under s501 of the Migration Act, whereas in the following reporting year since the amendment was made, 588 visas were cancelled with 983 visas cancelled in the most recent reporting year from 2015-16 (see DIBP Annual reports 2013-2014, 2014-15 and Commonwealth Ombudsman 2016).

In turn, this has resulted in a corresponding significant increase of s501 deportations since the introduction of amendments to the Migration Act. Statistics obtained from DIBP show that within the 2013-14 reporting year there were 66 monitored departures of persons whose visa was cancelled under s501 on character or related grounds, whilst the following reporting year, 2014-2015 -the first year since the December 2014 amendments to s501 of the *Migration Act 1958* - there was a sharp increase of s501 monitored departures to 144 removals. A further significant increase occurred in the most recent reporting year with 425 s501 removals in 2015-16 (red line on Graph 1 below, DIBP removal statistics).

Whilst it is not known how many of these removals were New Zealanders or Pacific Islanders (including those with New Zealand citizenship) DIBP statistics reveal that from December 2014 to February 2016, of the 561 New Zealand nationals who had their visas cancelled, 533 were cancelled under s501 of the Migration Act mandatory cancellation provisions (Karlsen, 2016). Further, the Senate Legal and Constitutional Affairs Legislation Committee reported in February 2016 that 174 out of the 183 New Zealanders in onshore immigration detention centres at that time, were there as a result of visa cancellation on character grounds (Commonwealth of Australia, 2016).

> **Graph 1: Number of visa cancellations under s501 against number of s501 removals each year from 2009-2016 (source: DIBP removal statistics and Commonwealth Ombudsman 2016)**
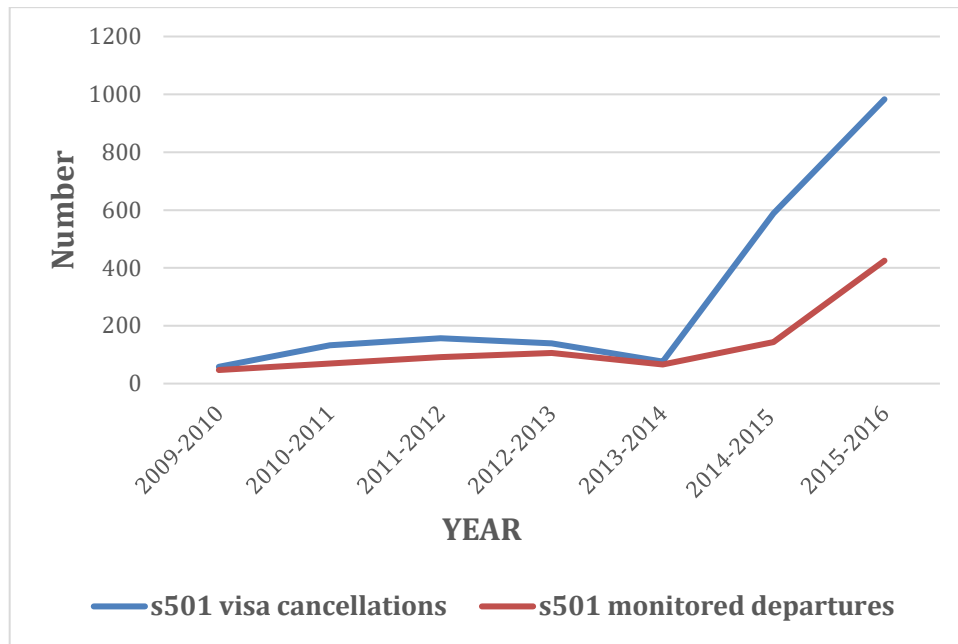
The Commonwealth Ombudsman's recent report on DIBP's administration of s501 of the Migration Act 1958 (see, Commonwealth Ombudsman 2016) shows that New Zealanders are by far the highest nationality of people whose visa has been cancelled under s501, with 697 cancellations recorded for New Zealanders between 1 January 2014 and 29 February 2016. The next highest recorded nationality was 'Other' multiple nationalities with 253 cancellations, followed by those from the United Kingdom with 124 cancellations in the same period. See Table 1 below.

Table 1: Nationality of people with visas cancelled under s501 from 1 January 2014 and 29 February 2016 (source: Commonwealth Ombudsman 2016)

Nationality	Number of visas cancelled under s501
New Zealand	697
Other	253
United Kingdom	124
Sudan	30
Vietnam	27
Fiji	20
Iraq	13
Italy	12
US	11
Lebanon	11
Afghanistan	11
South Africa	10
Total	**1,219**

There are significant concerns raised by this data, not least of which is the deportation of non-citizens based on association rather than criminal conviction. However, there are also significant diplomatic considerations

in relation to the Australian-New Zealand partnership and the impact these practices may have in the short and long term. Further, we wish to note that where an offender has been in Australia since childhood, there is a strong criminological and moral argument that their offending has arisen because of the circumstances they have experienced in this country, and that responsibility for their offending should not be shifted elsewhere.

Forcible removal from Australia also has significant impacts on non-offending family members in Australia and abroad, including children left behind. In the USA, these children have been the focus of extensive campaigns highlighting their vulnerability and powerlessness over their circumstances. In contrast, there is little consideration given to family members in Australia but this is the subject of ongoing PhD research by Rebecca Powell titled, 'I still call Australia home': The deportation of convicted non-citizens from Australia and the impact of policy and practice from a criminological perspective.' The Government's most recent considerations to extend s501 to the removal of children convicted non-citizens (aged 16 or 17 years) runs counter to fundamental human rights of the child and the protection of refugees (Convention on the Rights of the Child 1989; Convention Relating to the Status of Refugees 1961). These considerations appear to be directed as a deterrent measure for children involved in gang related criminal activity, many of whom have been identified in news media to be from South Sudan, New Zealand and the Pacific Islands.

d. Settlement services for international students

Australia is currently host to 253,757 international students (AEI, 2016). Indeed, international education is Australia's third largest export, with Victoria providing 39,169 full time equivalent positions (Australian Government, 2016). Having fared well economically from decades of playing host to international students, currently there are questions as to whether or not Australia is as competitive as other countries in terms of safety (ABC, 2012). In the recent years, crimes against international students have attracted the attention of Australian scholars (e.g. Forbes-Mewett et al. 2015; AIC 2011; Mason 2012). In 2009, Australia suffered reputational damage as a host country because of highly publicized crimes against international students (British Council, 2012). Media coverage of numerous attacks on Indian students, particularly in the western suburbs of Melbourne, Australia featured prominently in international news (Mason, 2012). The attacks were visible, violent and too frequent to be considered random, such as the globally publicised fatal attack in 2010 on Nitan Garg, who came to Australia as an international student (Baty, 2010).

While recent increases in student numbers indicate reputation recovery, international students continue to live in high risk areas characterised by low-cost housing, ethnic diversity, high unemployment and high crime (Forbes-Mewett and Wickes, under review). The attacks on Indian students in 2009 revealed notable differences between the circumstances of international students in Australia and other host locations. For example, a recent study identified a fundamental difference between the support and safety structures for international students in the UK and the US compared with Australia (Forbes-Mewett et al. 2015). In particular, the lack of on-site accommodation options for international students, which left many international students inadequately supported in terms of housing and therefore at risk. Forbes-Mewett

and colleagues (2015; Forbes-Mewett and Wickes, under review) find that Australia's large international student population was not supported by the level of infrastructure evident in the UK and the US, where students in general tended to live away from the family home. International students relocating to Australia, in particular to Melbourne, Victoria, were subjected to long term policies associated with student housing that do not, for the most part, explicitly consider the housing needs of students who live away from home without the support of family close by.

For Australia to provide international students with a safe and secure living away from home experience there is a need for a greater level of planning and infrastructure, in terms of employment, transport options and housing in particular. This is particularly evident considering the impact the events of 2009 had on the international education market in Australia. Certainly there have been moves by universities and private providers to provide more suitable housing options, yet despite these changes, it remains in Australia that housing options for international students must be at the fore of planning with efforts made to significantly reduce the need for students to resident in areas with few employment options and high rates of crime.

e. *Settlement and family violence*

Segrave's work on intimate partner and family violence in the Victorian context (McCulloch et al 2016, see current research here) has identified that women from culturally and linguistically diverse communities are often poorly connected to settlement services and/or settlement services are not well prepared for recognising or responding to situations of family violence. There are significant cultural and language barriers that need to be addressed, with the additional fear for recently arrived migrants that they may be deported if their family unit dissolves upon arrival and/or if they report their partner or husband to the police. Pruitt, Hamilton, Heydon and Spark have also conducted research (article currently under review) with service providers working on family violence in the Victorian context. In this research they determined that budget cuts in recent years have resulted in 'mainstreaming' of services that have left the needs of many CALD women unmet. For example, translating and interpreting services were often unavailable or inadequate, meaning that CALD women seeking assistance in relation to family violence were left underserved. This echoed the findings published in McCulloch et al (2016) that identify a range of significant issues pertaining to interpreter services that point to issues not just of resourcing, but the importance of being trained and suitable for undertaking this work. These issues are significant and impact settlement outcomes.

2. National and international best practice strategies for improving migrant settlement outcomes and prospects;

a. *The importance of community perception and attitudes: both for the host community and the newly arrived migrant community*

MONASH University
Arts

MONASH GPS

Monash Gender and Family Violence

BORDER CROSSING
OBSERVATORY
BORDERS, CRIME, JUSTICE

Central to the successful settlement of migrants is the reception of the host community. Recent increases in immigration, particularly humanitarian immigration, can pose major challenges for the development and maintenance of social inclusion. In Australia, acceptance of immigration remains low and negative attitudes towards the Muslim religion are higher than other religion groups (Dunn et al. 2004; Markus and Arunachalam 2013). Native born Australians are more likely to report high levels of social disorder and withdrawal from some aspects of community life in ethnically diverse neighbourhoods (Hipp and Wickes 2016; Wickes et al. 2013a; Wickes et al 2013b). These perceptions can lead to socially harmful attitudes and actions directed towards immigrants and the rise of extremist right wing political parties and movements (Grossman et al. 2016).

Evidence from other countries suggests that socially harmful attitudes and actions directed at migrants clusters in neighbourhoods, especially segregated neighbourhoods and those with large proportions of non-whites (Ramalingam et al. 2012). In Australia the presence of minorities can have a detrimental influence on the development of neighbourly relationships and increase perceptions crime, independent of the actual levels of crime in the neighbourhood (Wickes et al. 2013a; Wickes et al 2013b). Yet the extent to which these biases lead to the development of more harmful attitudes and actions directed towards migrants is unclear and is a vital area for future research.

Linked to this is a pressing need to better understand how the host community responds to the needs and experiences of young migrants. As young people will have settlement needs and experiences that differ from older migrants, it is important to focus on how perceptions of migrant youth vary across different settlement contexts and whether and/or how these perceptions may create barriers to inclusion and social participation. A sharper focus on youth experiences is necessary to establish best practice strategies for youth migrant settlement outcomes.

b. Effective ways of working with young people

Research with arts-based peacebuilding programs in Australia and Northern Ireland have shown these as effective means for bringing together young people across difference and offering nonviolent education. For example, in Northern Ireland a music-based peacebuilding program brought together Protestant, Catholic, and immigrant youth to collaborate in music-making over a series of workshops in schools and community centres. Through this collaboration, Northern Irish young people reported that the stereotypes they held of immigrants were changed through their work, which allowed them to see broader aspects of the immigrant young people's lives and personalities, beyond their race, religion, or ethnicity (Pruitt 2011). Likewise, in both Northern Ireland and Australia, young people participating in such cross-cultural programs noted feeling an enhanced sense of acceptance and belonging (Pruitt 2013a).

In the Australian context, arts workers from migrant backgrounds who acted as peer leaders noted that having the space to bring together migrant youth along with Aboriginal and other Australian-born young people offered a refuge from the community spaces they inhabit in Australia, which often featured violence

(Pruitt 2008). At the same time, the project aimed to provide a safe space for young people from refugee backgrounds to recover from violence experienced in their countries of origin (Pruitt 2013b). Perhaps most importantly across both of these music-based programs, young participants from all backgrounds reported that through the peacebuilding programming they had learned skills that they could use to resolve conflict nonviolently and that they would continue to work to reduce violence in their communities (Pruitt 2013a). This is despite the fact that most of them had not come along due to an interest in peacebuilding—indeed in breakout discussion groups some migrant youths participating reported previous involvement in gang activity—however, having come along due to an interest in hip hop and through it learned about nonviolence, they were invested in continuing to learn about and share these alternative ideas fostering peace in their communities.

The potential for such arts-based programs is not limited to music-based programming; indeed, Pruitt's research has also engaged with the utility of engaging young people through community theatre. For example, one Australian program studied in depth aimed to foster intercultural understanding and exchange between refugee, migrant, and indigenous young people. Likewise, the program aimed to help culturally and linguistically diverse young people share their stories through playback theatre. In doing so, the young people involved reported they had learned a great deal about multiculturalism and citizenship in Australia, especially when it comes to the importance of Indigenous knowledge and contributions to Australian society. Moreover, they reported feeling a greater sense of belonging and finally felt a sense of 'being Australian' due to having connected with other young people across difference (Pruitt 2015).

3. The importance of English language ability on a migrant's, or prospective migrant's, settlement outcome;

a. Our evidence on the importance of English-language ability & research agenda setting

Forbes-Mewett's research with international students (Forbes-Mewett 2011; Forbes-Mewett, McCulloch and Nyland, 2015; Marginson, Nyland, Sawir and Forbes-Mewett 2010; Sawir, Marginson, Forbes-Mewett, Nyland and Ramia 2012) has repeatedly shown that the settlement outcomes for this group of temporary (or prospective permanent) migrants are significantly affected by their English language ability. Community engagement with the Multicultural Settlement Committee (Eastern Region) has further revealed that language is crucial to successful settlement and that services are often limited to those provided by volunteers (Forbes-Mewett 2015-2017).

What is less well understood is how the local context in which a migrant settles influences and shapes opportunities for English language development. Not all migrants have ready access to funded English language services and thus must rely on informal mechanisms to develop and hone their language skills. A key area for future research is to examine how migrants without formal language support, at various life

stages, navigate English language development. Of further interest is whether or not these more informal processes lead to opportunities for employment and social inclusion.

Samoan-born New Zealand citizens living long term in Australia on Special Category Visas provide one example of a migrant cohort which does not benefit from formal language support. In research by Weber, Segrave and others (Tazreiter et al 2016), participants often reported feeling ashamed and isolated because it was assumed that, having lived for some time in New Zealand, they would have advanced English language skills. However, these individuals said that their lives in New Zealand had been lived largely in culturally supportive enclaves in which their day to day lives were conducted in their first language. This put them at a great disadvantage in Australia, where they felt they needed to compete with other cultural groups for jobs and resources. Because of their limited linguistic skills, some participants said they lacked confidence in the job market and when trying to understand their entitlements to government services, and were afraid of being made to feel ignorant and undeserving in face-to-face encounters with government officials. In line with the point made in the previous paragraph about 'informal mechanisms', it appeared that more western-educated members of the Samoan expatriate community often stepped in to act as mediators to bridge these gaps in linguistic and cultural capacity.

4. Whether current migration processes adequately assess a prospective migrant's settlement prospects.

a. Limitations on preparing the host community

Current migration processes do not adequately prepare the host community with skills to effectively ease the settlement and integration of migrants, especially migrants from African and Middle Eastern communities. Policies and programs need to cultivate strategies addressing the negative stereotypes generated through media and political rhetoric. According to the 2011 ABS census data, non-English speaking migrants cluster in a handful of state suburbs in capital cities and regional areas. It is therefore relatively straightforward to identity areas where local residents may be unreceptive to migrant settlement. In these places, residents may view the presence of migrants as a cultural or economic threat. Initiatives directed towards a) reducing the uncertainty surrounding particular groups and b) increasing opportunities for positive inter-ethnic contact are therefore critically important to assist successful settlement and enhance migrants' language, education and employment opportunities in areas where resistance towards migrants is likely to be present.

b. Trans-Tasman Travel Arrangement and Special Category Visas: permanent exclusion from settlement and support

Under the Trans-Tasman Travel Arrangement New Zealand citizens are able to enter Australia freely on Special Category Visas provided they pass the character test. That visa then enables them to remain in

Australia indefinitely, but does not grant them the more secure legal status of permanent residence. This special arrangement by-passes the points-based assessments that apply to other categories of permanent entrant. However, this relatively open access is not matched by access to essential services that are needed to ensure successful settlement.

Changes made in 2001 to the entitlements associated with SCVs deliberately restricted access to a wide range of benefits, certain categories of public employment and, most notably with respect to young people, to federally funded tertiary education. Research conducted by Monash researchers with Samoan-born New Zealand citizens living in Australia, concluded that these measures – which were intended to curb arrivals – had instead created serious, inter-generational disadvantage driven by overcrowded housing, reduced support for young people due to long working hours for parents, and loss of hope for the future in the absence of educational opportunities (Tazreiter et al). Some avenues for post-secondary education have since been opened up for certain SCV holders, but pathways to citizenship are still very limited, and restrictive policies continue to marginalise young SCV holders by creating conditions of sustained insecurity.

Although our research has not specifically canvassed the causes of youth offending amongst young people living long term without the protections of citizenship, the types of marginalisation described above, such as lack of parental support, early withdrawal from education and lack of employment prospects are widely regarded within the criminological literature as social risk factors for youth offending. There is an abundance of community-generated literature that asserts that much of the offending by Pasifika youths is poverty-based (see for example, United Voice of Pacific Island Communities 2012), and that the socio-economic deprivation and loss of hope for the future that drives this behaviour arises, to a large extent, from their marginalised legal status. Perhaps the ultimate source of insecurity amongst some Samoan-born parents interviewed in our research was that their children would become involved in criminality, which – without the protections afforded by citizenship - could lead to their deportation.

c. Impacts of s501 of the Migration Act on current migration practices capacity to adequately assess a prospective migrant's settlement prospects.

As outlined in section 1c, amendments made to the character test under s501 of the *Migration Act* in December 2014 resulted in a tightening of Australian government policy on visa cancellations for convicted non-citizens. The number of visa cancellation decisions by DIBP have subsequently increased exponentially as a result of the mandatory visa cancellation clause. Research conducted by the Border Crossing Observatory reviewing Administrative Appeal Tribunal (AAT) decisions for s501 visa cancellations over a ten-year period from 2005-2015 reveals how decision making at the appeals process is lacking in a systematic approach and works to construct convicted non-citizens as a risk to the Australian community as a means to pre-empt and export risk (research available on request, currently being prepared for publication). This arguably has an impact on the assessment of prospective migrant's settlement prospects. Visa cancellation will put a convicted non-citizen on a pathway towards removal from Australia, and where such an outcome eventuates, that person is banned from re-entering Australia for a period of at least three

MONASH University
Arts

MONASH GPS

Monash Gender and Family Violence

BORDER CROSSING
OBSERVATORY
BORDERS, CRIME, JUSTICE

years (DIBP website).

It is on this basis of protecting the Australian community from risk, and with great decisional weight placed upon this consideration (see, Ministerial Direction No. 65 to the *Migration Act 1958*), that convicted non-citizens' right to remain in Australia is judged and hangs in the balance. Such an approach to decision making gives limited regard to convicted non-citizens' human rights, including opportunities for rehabilitation, less decisional weight is given to the length of residence in, and connections they have to, the Australian community, and, at times, the right to family life is also affected in this decision making process.

The increase in the deportation of convicted non-citizens to New Zealand in particular, has had a detrimental impact on Australia-New Zealand diplomatic relations because this practice essentially rests on the 'exporting of risk' (Weber and Pickering 2012). By engaging in such a practice, the risk presented by the convicted non-citizen has little chance of being mitigated because opportunities for rehabilitation are significantly reduced or not even made available once a person is on a removal pathway. As Weber and Powell argue (forthcoming), "where serious criminality has not been effectively addressed through the justice process, deportation may sometimes displace genuine risks to receiving communities, exacerbate the factors that led to offending in the first place, and, under certain conditions, foster transnational criminal connections that may generate regional security threats. The sovereign act of deportation, far from mitigating risk, may instead send ripples of risk across the globe."

References

ABC News (2016a) 'Richmond Tigers player Dustin Martin's dad, an alleged Rebels bikie chief, facing deportation' 11 March 2016. Available at, http://www.abc.net.au/news/2016-03-11/richmond-tigers-dustin-martins-dad-rebels-bikie-to-be-deported/7239804 [Accessed 16 January 2017].

ABC News (2016b) Website: http://www.abc.net.au/news/2016-11-07/how-african-refugees-are-reinvigorating-mingoola/7970876. [Accessed 18 January 2017].

AEI (2016) *International Student Enrolment Data.* Retrieved January 19, 2017: https://internationaleducation.gov.au/research/International-Student-Data/Pages/InternationalStudentData2016.aspx

Australian Broadcasting Commission (ABC) (2012) International students staying away from Australia, 7 March.

Australian Government, Department of Education and Training (2016) Research Snapshot, accessed 28 October 2016: https://internationaleducation.gov.au/research/Research-Snapshots/Documents/Transnational%20education_HE_2015.pdf

Australian Institute of Criminology, AIC (2011) *Crimes against international students in Australia: 2005-09*. Canberra: AIC.

Baty, P. (2010) 'Exposed and vulnerable'. *Times Higher Education*. Accessed online: https://www.timeshighereducation.com/features/exposed-and-vulnerable/411285.article

British Council (2012). *The Rise in Student Safety Concerns*. London: Education Intelligence.

Commonwealth of Australia (2016) 'Proof Committee Hansard, Senate Legal and Constitutional Affairs Legislation Committee, Estimates' Monday, 8 February 2016. Canberra. Available at, http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22committees%2Festimate%2F06e2d3df-3fe5-4bce-b155-8e43d929d5ea%2F0002%22;src1=sm1 [Accessed 17 January 2017]

Commonwealth Ombudsman (2016) *The Department of Immigration and Border Protection: The administration of Section 501 of The Migration Act 1958*, Report No. 08|2016, December 2016.

Department of Immigration and Border Protection, (website) 'Re-entry bans fact sheet', Available at, https://www.border.gov.au/Trav/Visa/expired-visas/community-status-resolution-service/exclusion-period-fact-sheet [Accessed 16 January 2017].

Department of Immigration and Border Protection (2014) *Annual Report 2013-2014*, Australian Government. Available at, http://www.border.gov.au/ReportsandPublications/Documents/annual-reports/DIBP_AR_2013-14.pdf [Accessed 16 January 2017].

Department of Immigration and Border Protection (2014) *Annual Report 2014-2015*, Australian Government. Available at, https://www.border.gov.au/ReportsandPublications/Documents/annual-reports/DIBP-Annual-Report-2014-15.pdf [Accessed 16 January 2017]

Dunn, K. M., Forrest, J., Burnley, I., & McDonald, A. (2004). Constructing racism in Australia. *Australian Journal of Social Issues*, 39(4), 409.

Elias, N. and Scotson, J.L., 1994. The established and the outsiders, a sociological enquiry into community problems. 2nd ed. London: Sage.

Forbes-Mewett (2015-2017) Member - Multicultural Settlement Committee (Eastern Region), Standing Committee of the Communities' Council on Ethnic Issues (Eastern Region) Inc. Reg. No. A0017562S. Website: www.ccoei.org.au

Forbes-Mewett, H. (2011) International Education Preparation: Minimising risk and furthering security, *International Journal of Contemporary Sociology*, 48(1): 61-92.

Forbes-Mewett, H., McCulloch, J. and Nyland, C. (2015) *International Students and Crime.* Palgrave Macmillan,

Houndmills.

Forbes-Mewett, H., Nyland, C. and Thomson, S.B. (2013) Chinese Transnational Investment in Australia: A case study of insider/outsider relations, *Journal of Intercultural Studies*, 34(1): 75-90.

Forbes-Mewett, H. and Wickes, R. (2017) The neighbourhood context of hate crime against international students. *(under review)*

Grewcock, M. (2014) 'Reinventing "the stain" - bad character and criminal deportation in contemporary Australia', in S. Pickering and J. Ham (eds) *Routledge Handbook on Crime and International Migration,* Routledge: Abingdon: 121-138.

Grossman, M., Peucker, M., Smith, D. and Dellal H. (2016). Stocktake Research Project: A systematic literature and selected program review on social cohesion, community resilience and violent extremism 2011-2015. Victoria: Community Resilience Unit, Department of Premier and Cabinet.

Hipp, J.R. and Wickes, R. (in press). Minority status distortion and preference for in-group ties: consequences for social capital. *Socius* (accepted 26 February 2016).

Karlsen, E. (2016) 'Migration Amendment (Character Cancellation Consequential Provisions) Bill 2016' Bills Digest, Parliament of Australia, Parliamentary Library, Bills Digest No. 97 2015-16. 9 March 2016. Available at, http://parlinfo.aph.gov.au/parlInfo/download/legislation/billsdgs/4418865/upload_binary/4418865.pdf;fileType=application%2Fpdf#search=%22legislation/billsdgs/4418865%22 [Accessed 16 January 2017]

Lowery, S. (2016) 'Kiwi with gang links deported from Australia', *News Hub New Zealand* (online), 7 April 2016. Available at, http://www.newshub.co.nz/home/new-zealand/2016/04/kiwi-with-bikie-gang-links-deported-from-australia.html [Accessed 16 January 2017].

Marginson, S., Nyland, C. Sawir, E**.,** Forbes-Mewett, H. (2010) *International Student Security.* Cambridge University Press, Cambridge.

Markus, A., & Arunachalam, D. (2013). Mapping social cohesion. Monash University, Caulfield East, Australia.

Mason, G. (2012) I am tomorrow: Violence against Indian students in Australia and political denial. *Australian and New Zealand Journal of Criminology*, 45(1):4-25.

McCulloch, J., Maher, J., Fitz-Gibbon, K., Segrave, M., & Roffee, J. (2016) Review of the Family Violence Risk Assessment and Risk Management Framework (CRAF). Prepared for the Department of Health and Human Services by the School of Social Sciences, Focus Program on Gender and Family Violence: New Frameworks in Prevention, Monash University, Clayton, Victoria, Australia.

Ministerial Direction No. 65 to the *Migration Act 1958,* Direction under Section 499, Visa refusal and cancellation under s501 and revocation of a mandatory cancellation of a visa under s501CA. Available at, https://www.border.gov.au/visas/Documents/ministerial-direction-65.pdf [Accessed 16 January 2017].

Pruitt, Lesley J. "Multiculturalism at Play: Young People and Citizenship in Australia." 2016. *Journal of Youth Studies* 19(2): 269-285.

Pruitt, Lesley J. *Youth Peacebuilding: Music, Gender, and Change.* 2013a. Published in the 'Praxis: Theory in Action' series. State University of New York (SUNY) Press.

Pruitt, Lesley J. "'Fixing the Girls': Neoliberal Discourse and Girls' Participation in Peacebuilding." 2013b. *International Feminist Journal of Politics* 15(1): 58-76.

Pruitt, Lesley J. "Music, Youth and Peacebuilding in Northern Ireland." 2011. *Global Change, Peace & Security* 23(2): 207-222.

Pruitt, Lesley J. "They Drop Beats, Not Bombs: A Brief Discussion of Issues Surrounding the Potential of Music and Dance in Youth Peace-building." *Australian Journal of Peace Studies*(2008) 3: 10-28.

Sawir, E., Marginson, S., Forbes-Mewett, H.**,** Nyland, C. and Ramia, G. (2012) International Student Security and English Language Proficiency, *Journal of Studies in International Education*, 16(5): 434-454.

Tazreiter, C., Weber, L., Pickering, S., Segrave, M., & McKernan, H. (2016). *Fluid Security in the Asia Pacific: Transnational lives, human rights and state control*. London: Palgrave Macmillan.

United Voice of Pacific Island Communities (2012) Submission on behalf of Pacific Island communities in Victoria to the Inquiry of the Joint Standing Committee on Migration into Multiculturalism in Australia, available at file:///C:/Users/wleanne/Downloads/http---www.aphref.aph.gov.au-house-committee-mig-multiculturalism-subs-sub509%20(2).pdf

Weber, L. (2013) *Policing Non-Citizens*, Routledge, Abingdon UK.

Weber, L. and Pickering, S.J. (2012) 'Exporting risk, deporting non-citizens', in F. Pakes (ed.) *Globalisation and the Challenge to Criminology*, Routledge, Abingdon UK, pp. 110-128.

Weber, L. and Powell, R. (forthcoming 2017) 'Ripples across the Pacific: cycles of risk and exclusion following criminal deportation to Samoa' in S. Khosravi (ed.), *After deportation: Ethnographic perspectives*, Basingstoke: Palgrave Macmillan.

Weber, L., McKernan, H., & Gibbon, H. (2013). Trans-Tasman Denizens: Human Rights and Human (In)security Amongst New Zealand Residents of Samoan Origin in Australia. *Australian Journal of Human Rights (Special Issue on Human*

Mobility and Human Rights), 19(3), 51-78

Wickes, R., Zahnow, R., White, G. and Mazerolle, L. (2013). Ethnic diversity and its impact on community social cohesion and neighbourly exchange, *Journal of Urban Affairs*, 36(1), 51-78.

Wickes, R., Hipp, J., Zahnow, R., and Mazerolle, L. (2013). 'Seeing' minorities and perceptions of disorder: Explicating the mediating and moderating mechanisms of social cohesion, *Criminology* 51(3), 519-560.