



**SUBMISSION to LEGAL AND CONSTITUTIONAL AFFAIRS COMMITTEE:**

**Migration Amendment (Detention Reform and Procedural Fairness) Bill  
2010**

**August 2011**

## **1. Introduction**

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### **The Multicultural Youth Advocacy Network (Australia)**

The MYAN is a nationally recognised policy and advocacy body that represents migrant and newly arrived young people, in order to advance their rights and interests. The MYAN was established in 2005 in response to an identified need for a coordinated national advisory and advocacy network for multicultural youth issues. The issues and needs of multicultural young people are often overlooked as they are a sub-group of both the broader youth and multicultural sectors and underrepresented in the policy and advocacy work of both the government and non-government sectors.

While the MYAN has a focus on newly arrived young people, particularly those from refugee or humanitarian backgrounds. The MYAN believes that a targeted response at both the policy and service delivery levels is necessary to support the sustained participation and engagement of young people from refugee and migrant backgrounds in Australian society.

With 'Youth Settlement' as one of our policy priorities, the MYAN believes that the humane treatment of young people seeking asylum in Australia is critical to their capacity to settle well and become active and engaged Australian citizens should they be granted a permanent visa.

### **Australian Youth Affairs Coalition**

The Australian Youth Affairs Coalition (AYAC) is Australia's non-government youth affairs peak body, which seeks to represent young people aged 12-25 and the sector that supports them.

AYAC boasts a growing membership of State and Territory Youth Peak Bodies, National Youth Organisations, researchers, policy makers and young people themselves, who are all passionate about creating an Australian community that supports and promotes the positive development of young people.

AYAC aims to:

- Provide a body broadly representative of the issues and interests of young people and the youth affairs field in Australia
- Advocate for a united Australia which respects and values Aboriginal and Torres Strait Islander heritage, promotes human rights, and provides justice for all
- Represent the rights and interests of young people in Australia, at both a national and an international level
- Promote the elimination of poverty and to promote the well being of young Australians, with a particular focus on those who are disadvantaged.
- Recognise the diversity of Australian society, to promote the cultural, social, economic, political, environmental and spiritual interests and participation of young people in all aspects of society
- Advocate for, assist with and support the development of policy positions on issues

affecting young people and the youth affairs field, and to provide policy advice, perspectives and advocacy to Governments and the broader community

- Facilitate co-ordination and co-operation within the youth affairs field

AYAC and its members are dedicated to working for and with young people and seek to ensure they have access to mechanisms, which allow them to make decisions about issues that affect them in the Australian community.

## **2. About this Submission**

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This is a joint submission from the MYAN and AYAC. We welcome the opportunity to make a submission to the Committee on the Migration Amendment (Detention Reform and Procedural Fairness) Bill 2010. We also endorse the submissions to the Committee made by the *Refugee Council of Australia* and *headspace*.

The MYAN and AYAC understand that balancing the need to protect Australia's borders with our international human rights obligations is a challenging and complex policy and legislative area for government. We commend the government for its' recent initiative to move children and vulnerable family groups out of immigration detention facilities and centres and into community-based accommodation. This expansion of the residence determination program reflects a more humane approach to the treatment of those seeking asylum in Australia.

However, notwithstanding such initiatives, AYAC and the MYAN are concerned that many aspects of existing immigration legislation and policy, including mandatory detention and excision, contravene Australia's human rights' obligations as a signatory to a number of UN conventions and treaties (including the 1951 Refugee Convention and the Convention on the Rights of the Child). For many young people, the process of seeking asylum in Australia (including mandatory detention) is traumatic, and is compounded by pre-arrival trauma and the developmental tasks of adolescence.

As the *headspace* submission to this committee notes, the body of evidence supporting the detrimental impact of immigration detention on young people is increasing. That mandatory detention has a significant detrimental impact on young people's mental and physical health is widely accepted and understood. Many organisations: health, welfare and others, have continually advocated for the abolition of mandatory detention (*headspace*, June 2011: 6).

## **3. The Bill**

AYAC and the MYAN are fundamentally supportive of the recommendations proposed in the *Migration Amendment (Detention Reform and Procedural Fairness) Bill* and we strongly support the 'Asylum Seeker Principles' guiding the Bill. In particular, we support the following aspects of the Bill:

### **3.1 Off-shore processing of asylum seekers**

Removal of 'excision-zone' language and the policy of excision.

### **3.2 Immigration Detention**

The proposed substitution of the word 'must' with 'may' (ss 42(4), 189(1), 189(2)) in relation to mandatory detention as outlined in this *Bill*. We hope that such a change in migration legislation would be reflected in practice, and would result in the end of the existing policy of mandatory detention.

### **3.3 Review processes**

We believe that the proposed processes for review would support increased accountability in relation to the existing immigration detention regime, and provide consideration of (and responsiveness to) the impact of detention on individuals' physical and mental health and wellbeing.

## **4. Recommendation**

AYAC and the MYAN commend this Bill to Parliament and believe it should be adopted in full.

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### **Contact Details**

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