



# Multicultural Youth Advocacy Network (MYAN Australia)

## Submission to Senate Community Affairs Legislation Committee for the Social Services Legislation Amendment (Encouraging Self-sufficiency for Newly Arrived Migrants) Bill 2018

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## About MYAN

The Multicultural Youth Advocacy Network (MYAN) is the national peak body representing multicultural youth issues.

MYAN works in partnership with young people, government and non-government agencies at the state and territory and national levels to ensure that the particular needs of young people from refugee and migrant backgrounds are recognised, and to support a coherent and consistent approach to addressing these needs in policy and service delivery. The MYAN undertakes a range of policy and sector development activities, and also supports young people to develop leadership and advocacy skills to influence the national agenda.

Young people from refugee and migrant backgrounds demonstrate high levels of resilience and resourcefulness and have the potential to be active participants in and contributors to Australian society. However, they can face particular barriers to accessing services and opportunities, including language, culture, limited social capital and unfamiliarity with Australian systems and processes (including the service system), racism and discrimination. These factors can place them at a social and economic disadvantage within Australian society, which can mean they are at higher risk of social and economic isolation. The MYAN believes that a targeted approach to policy and service delivery is essential to addressing these barriers.

The MYAN has developed the *National Youth Settlement Framework* to support a targeted and consistent approach to addressing the needs of newly arrived young people settling in Australia.

## About this submission

MYAN welcomes the opportunity to contribute to the Senate Community Affairs Legislation Committee's Inquiry on the Social Services Legislation Amendment (Encouraging Self-sufficiency for Newly Arrived Migrants) Bill 2018 (referred from here on as 'the Bill'). This submission does not respond to individual changes in the Schedules as introduced in the Bill, but rather highlights the particular challenges and barriers faced by young people from refugee and migrant backgrounds this Bill may perpetuate that MYAN would like to bring to the Committee's attention.

This submission provides a national perspective, drawing on the MYAN's breadth of experience working with young people from refugee and migrant backgrounds, their communities and the youth and settlement sectors across Australia. Settlement trajectories and supports (or their lack of) for young people from refugee and migrant backgrounds are one of MYAN's policy priorities – as identified by both young people and service providers.

This submission focuses on the particular circumstances of and barriers for young people from refugee-like backgrounds and the need for better support for this group upon arrival in Australia to best ensure they can thrive as future Australians.

This submission provides an overview of the profile of the young people arriving in Australia with a non-humanitarian visa, with specific focus on young people with orphan visas. It then provides

information on the challenges these young people already face in settling Australia, as well as the increased hardship the changes in this Bill may impose on these young people. The submission also mentions possible future implications of these changes for young people arriving to Australia from refugee-like backgrounds. An Annex providing information on specific visas available for young people arriving in Australia concludes the submission.

## Key Recommendations

- MYAN recommends to the Committee that the Bill is not passed in its current form.
- MYAN recommends the Committee review the Bill with consideration of the potential damaging impacts on young people with particular vulnerabilities, particularly those from refugee or refugee-like backgrounds who may arrive in Australia with non-humanitarian visas.
- MYAN recommends that vulnerable young people are provided with exemptions from any waiting periods. In line with this, MYAN also recommends that the Committee integrate a support system similar to that provided to humanitarian arrivals within measures concerning newly arrived residents for young people arriving in Australia with Orphan visa (subclass 117) and remaining relative visa (subclass 115) under the Family stream.

## General Statements about the Bill

The Bill focuses and builds on seeking consistency in social security payments<sup>1</sup> for new arrivals. MYAN regrets that this approach does not consider specificities and vulnerabilities among new arrivals to Australia, especially in relation to young people from refugee-like backgrounds.

Australia has a very targeted social security system and has in fact the most targeted social security system to the poor when compared with other OECD countries.<sup>2</sup> In addition to having a very targeted system, as reflected by the Productivity Commission, the take up rates of benefits provided in this system to the newly arrived migrants are already low.<sup>3</sup> In light of this, rather than a consistent social security system, MYAN believes that Australia needs to continue to have a targeted system, and that could demonstrate itself as a targeted support system for new arrivals to Australia - not based on visa subclasses, but the individual situation of the people arriving. As mentioned by the Joint Standing Committee on Migration, newly arrived migrants may achieve better settlement outcomes if they could access the same support provided to the entrants arriving Australia under the Humanitarian Programme<sup>4</sup>. More effective settlement services could be provided to enhance the integration of

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<sup>1</sup> The Parliament of the Commonwealth of Australia (2018) *Explanatory Memorandum for the Social Services Legislation Amendment (Encouraging Self-sufficiency for Newly Arrived Migrants) Bill 2018*. Available at [http://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/r6048\\_ems\\_17e00372-92f3-4cfa-a5e3-7eb01bb1553a/upload\\_pdf/663188\\_Edit.pdf;fileType=application%2Fpdf](http://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/r6048_ems_17e00372-92f3-4cfa-a5e3-7eb01bb1553a/upload_pdf/663188_Edit.pdf;fileType=application%2Fpdf), p. 3.

<sup>2</sup> Whiteford, P (2016) *Assessing Developments and Prospects in the Australian Welfare State, Presentation to OECD*. Available at <https://www.oecd.org/els/emp/OECD-ELS-Seminars-Australian%20Developments%20and%20Prospects-Whiteford-2016.pdf>, slide 12.

<sup>3</sup> Productivity Commission (2016) *Migrant Intake into Australia, Productivity Commission Inquiry Report, No.77*. Available at <https://www.pc.gov.au/inquiries/completed/migrant-intake/report/migrant-intake-report.pdf>, p.316.

<sup>4</sup> Joint Standing Committee on Migration (2017) *No one teaches you to become an Australian: Report of the inquiry into migrant settlement outcomes*. Canberra: Parliament of the Commonwealth of Australia, p. 35.

immigrants, as suggested by the Productivity Commission.<sup>5</sup> Expanding eligibility for settlement services and supports to all newly arrived young people with identified needs promotes participation and decrease the likelihood of disengagement and marginalisation early. It can also improve long term outcomes.<sup>6</sup> Such support is especially vital for young people from refugee-like backgrounds arriving in Australia with a non-humanitarian visa.<sup>7</sup>

Young people from refugee and migrant backgrounds arrive in Australia with strengths and capabilities and they need access to support and opportunities to ensure greater settlement outcomes in Australia - this includes pathways to education and employment; recognition of formal and non-formal skills and qualifications acquired overseas.<sup>8</sup>

### Profile of young people arriving in Australia with a non-humanitarian visa

The following data was provided to MYAN Australia by the Department of Social Services, and reflects the profile of young people arriving in Australia with a non-humanitarian visa as at 25<sup>th</sup> October 2017.<sup>9</sup>

In 2016/17 financial year, 17,446 young people aged 12 to 24 years settled permanently in Australia. While, almost one-third (32%) were granted permanent visas under the Humanitarian Programme, one in four (25%) young people entered via the Skill stream and almost one in every two (43%) young people arrived via the Family stream (see Table 1).

*Table 1: Arrivals by migration category and year*

Financial Year	Humanitarian	Family	Skill	Total
2016/17	5,646 (32%)	7,488 (43%)	4,312 (25%)	17,446

Young people, aged 12 to 24 years, represented 15% of all permanent arrivals to Australia in 2016/17, making up 21% of all family arrivals.

Several visas are available for young people under the Family stream of Migration Programme of Australia.<sup>10</sup> Some of these visas are specifically for young people under 18 years old who are orphans, and who are unable to be cared for by their parents.<sup>11</sup> While these visas are separate from the visas granted under the Humanitarian Programme, an important portion of these visas are granted to

<sup>5</sup>Productivity Commission (2016) *Inquiry Report: Migrant Intake Into Australia, No. 77*. Canberra: Productivity Commission, p.2.

<sup>6</sup> MYAN (2017) *Submission to the Joint Standing Committee on Migration: Inquiry into Settlement Outcomes*. Melbourne: Multicultural Youth Advocacy Network (MYAN), p. 19.

<sup>7</sup> MYAN (2018) *Submission to the Department of Home Affairs on 'Managing Australia's Migrant Intake'*. Melbourne: Multicultural Youth Advocacy Network (MYAN), p. 6.

<sup>8</sup> VicHealth, Data61, CSIRO & MYAN (2017) *Bright Futures: Spotlight on the wellbeing of young people from refugee and migrant backgrounds*. Melbourne: Victorian Health Promotion Foundation, p. 9.

<sup>9</sup> All data presented is accurate as at this date within noted caveats of the DSS Settlement Database (SDB). For full list of stated caveats for this data, see <https://www.dss.gov.au/our-responsibilities/settlement-and-multicultural-affairs/programs-policy/settlement-services/settlement-reporting-facility/help-for-settlement-reports/caveats>

<sup>10</sup> See Annex for details and descriptions of these visas.

<sup>11</sup>This is the case if the parents are missing or permanently incapacitated, for the visa subclasses 117 and 837.

young people whose countries of birth are the same of those arriving under the Humanitarian Programme.

Table 2 presents a comparison of top ten countries of birth of humanitarian youth arrivals with different migration categories. There are high numbers of young people across all these categories arriving from the same countries of birth. Young people under the Family stream who reported their country of birth as Afghanistan was almost double the number of humanitarian youth arrivals in 2016/17. Almost the same number of young people reported their country of birth as South Sudan under the Family stream and under the Humanitarian Programme in 2016/17.

*Table 2: Comparison of top ten countries of birth of humanitarian youth arrivals with different migration categories, 2016/17*

Country of Birth	Humanitarian	Family	Skill	Total
Iraq	1,967	149	10	2,126
Syrian Arab Republic	1,679	43	<5	1,724
Afghanistan	401	801	<5	1,205
Myanmar	315	34	5	354
Thailand	227	275	7	509
Iran	215	58	94	367
Nepal	155	201	87	443
Republic of South Sudan	95	89	0	184
Eritrea	80	12	0	92
Democratic Republic of the Congo	75	25	0	100
<b>Grand Total</b>	<b>5,209</b>	<b>1,687</b>	<b>208</b>	<b>7,104</b>
<b>Grand Total of all youth arrivals</b>	<b>5,646</b>	<b>7,488</b>	<b>4,312</b>	<b>17,446</b>

Almost a quarter (23%) of all youth arrivals under the Family stream were from the top ten countries of birth of humanitarian youth arrivals. This is similar for young people arriving with specific visas under the Family stream.

While the Explanatory Memorandum of the Bill<sup>12</sup> mentions that migrants arriving on family related visas have the support of their family members and are making the decision to move here to be with them, as can be seen from the above data, some of the young people arriving under the family stream are arriving in Australia to unite with their families who have been humanitarian arrivals in the past and who may not be in a position to sufficiently support them.

In 2016/17, 270 visas were granted to young people under Orphan Relative (117), Orphan Relative (837) and Remaining Relative (115) visa categories (see Table 3).

<sup>12</sup> The Parliament of the Commonwealth of Australia (2018) *Explanatory Memorandum for the Social Services Legislation Amendment (Encouraging Self-sufficiency for Newly Arrived Migrants) Bill 2018*. Available at [http://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/r6048\\_ems\\_17e00372-92f3-4cfa-a5e3-7eb01bb1553a/upload\\_pdf/663188\\_Edit.pdf;fileType=application%2Fpdf](http://parlinfo.aph.gov.au/parlInfo/download/legislation/ems/r6048_ems_17e00372-92f3-4cfa-a5e3-7eb01bb1553a/upload_pdf/663188_Edit.pdf;fileType=application%2Fpdf), p. 30.

Table 3: Youth arrivals by 115, 117 and 837 visa subclass and financial year

Visa subclass	2012/13	2013/14	2014/15	2015/16	2016/17	Total
115 Remaining Relative visa	63	40	18	27	11	159
117 Orphan Relative visa (offshore)	234	383	356	308	258	1,539
837 Orphan Relative visa (onshore)	5	9	<5	<5	<5	22
<b>Grand Total</b>	<b>302</b>	<b>432</b>	<b>377</b>	<b>339</b>	<b>270</b>	<b>1,720</b>

The majority of the visas were granted under the Orphan Relative (117) visa subclass in 2016/17, as was the case in previous financial years, making up 96% of the visa grants in these three categories.

The majority of youth arrivals with an Orphan Relative (117) visa were in the 12 to 17 year age group, and almost half (42%) of all arrivals were in the 18 to 24 year age group (see Table 4). Given that the first requirement for applying to the 117 visa is to be under 18 years old at the time of application, this data means that almost half of the arrivals under this visa subclass went through long waiting periods before arrival to Australia in the absence of a parent who can provide care.

Table 4: Youth arrivals by 115, 117 and 837 visa subclass and by age group, 2016/17

Visa subclass	12-15	16-17	18-24	Total
115 Remaining Relative visa	<5	<5	<5	11
117 Orphan Relative visa (offshore)	80	70	108	258
837 Orphan Relative visa (onshore)	0	<5	0	<5
<b>Grand Total</b>	<b>83</b>	<b>75</b>	<b>112</b>	<b>270</b>

The top four countries of birth for youth arriving under 117 visa were Afghanistan, Ethiopia, South Sudan followed by Somalia, making up 61% of all youth arrivals under this visa category (see Table 5).

Table 5: Youth arrivals under 117 visa by top ten countries of birth, 2016/17

Country of Birth	117
Afghanistan	60
Ethiopia	43
Republic of South Sudan	29
Somalia	25
Zimbabwe	12
Democratic Republic of the Congo	11
Guinea	7
Sierra Leone	7
Kenya	6
Tanzania	6
Others	52
<b>Total</b>	<b>258</b>

Young people with Remaining Relative (115) visas, totalling eleven, arrived only from four countries of birth (respectively); Afghanistan, Peoples Republic of China, Eritrea and Iran in the 2016/17 financial year.

### Challenges and barriers for young people arriving under Family Stream

The above data demonstrates that many young people who arrive in Australia through the Family stream of the Australian Migration Programme come from refugee or refugee-like situations, with their experiences reflecting those of young people entering through the Humanitarian Programme. They however have less formal structures and supports in place when they begin their settlement journey in Australia.

Young people arriving on 115 (Remaining Relative) and 117 (Orphan Relative) visas are typically living in Australia in kinship care arrangements. These young people may experience vulnerabilities related to their pre-migration experiences<sup>13</sup>, and their transition to a new country and culture, as well as due to breakdown of their family relations after their arrival in Australia. Breakdown of relations between a young person and the carer family member(s) in Australia could be due to various reasons, such as increased pressure on housing (such as overcrowding), lack of financial capabilities, different expectations of the carer or the young person in relation to settlement needs, etc.<sup>14</sup>, and may leave the young person at risk of destitution and homelessness. It has been demonstrated that some of these young people already face such problems when their family relations breakdown within the two-year waiting period, even though in the past their carers/families had access to limited additional supports<sup>15</sup>, such as the Family Tax Benefit.<sup>16</sup>

As these young people arrive through the Family stream of the Migration Programme, they are not eligible for the same services provided to humanitarian arrivals (those arriving through Australia's Humanitarian Programme) and are not exempt from waiting periods established for newly arriving migrants to access different benefits that are subject to this Bill. This therefore places additional pressure on carer family and community supports and may mean that the needs of this group of young people remain unaddressed.<sup>17</sup>

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<sup>13</sup> Serr & Rose (2016) *New Beginnings: Issues and Needs in International Kinship Care*. North Melbourne, VIC: Australian Scholarly Publishing, p. 1.

<sup>14</sup> Serr & Rose (2016) *New Beginnings: Issues and Needs in International Kinship Care*. North Melbourne, VIC: Australian Scholarly Publishing, p. 45.

<sup>15</sup> CMY (2014) *Young People on Remaining Relative visas (115) and Orphan Relative visas (117)*. Available at <http://www.cmy.net.au/publications/young-people-remaining-relative-visas-115-and-orphan-relative-visas-117>, p. 4.

<sup>16</sup> The Bill, as it stands, does not differentiate for situations like this. Therefore it is not clear, whether the carers/family of 115 and 117 holders would be eligible to access Family Tax Benefit, within the waiting period foreseen under the Bill, where as they are currently eligible for this support.

<sup>17</sup> Service providers may be unclear about what supports they can provide and what referral options exist, resulting in young people not accessing the support they need to navigate the settlement journey. In a 2013 report exploring the unique migration experience of young people on 117 visas, International Social Service (ISS) Australia recommended collaboration between kinship care services and the refugee and migrant settlement sector to specifically support the needs of this newly arrived group of young people. See Kavanagh (2013) *Home safe home: A report on children who migrate to Australia*. Available at <http://iss-ssi.org/2009/assets/files/news/ISSAustralia-HomeSafeHomeReport-May2013-web.pdf>, p. 5. Building on this study, in their 2016 study on the 117 visa holders, ISS also recommended greater recognition for the issues and needs of Orphan Relative visa holders and their carers in government policy, given multiple challenges faced related to lack of financial and other resources, accommodation, emotional and psychological issues and cultural differences. See Serr & Rose (2016) *New Beginnings: Issues and Needs in International Kinship Care*. North Melbourne, VIC: Australian Scholarly Publishing, pp. 60- 69. The Centre for Multicultural Youth (CMY) in Victoria have also developed a resource providing information about young people on a 117 or a 115 visa, their entitlements and referral options available to them. See, CMY (2014) *Young People on Remaining Relative visas (115)*

With the introduction of changes suggested in the Bill, the young people arriving with 115 and 117 visas as well as their carers would be left without the support that was provided in the past, and in case of a family breakdown, the young person would be left destitute as they would not be able to access benefits such as youth allowance for a period of three years.

MYAN believes that the Bill does not consider such risks for young people, and that a different system should be put in place. This should be similar to those of humanitarian arrivals for supporting young people arriving in Australia with Orphan visa (subclass 117) and remaining relative visa (subclass 115) under the Family stream. MYAN also believes that these young people should be exempt from waiting periods currently applicable to newly arrived residents.

### Future implications of introducing new waiting periods and increasing current waiting periods for newly arrived migrants

In recent years there has been increasing discussions to introduce complementary pathways of admission<sup>18</sup> for refugees to third countries around the world, and similar systems have also been discussed in Australia. As put forward by the Australian Human Rights Commissioner, there are significant opportunities within the Family stream of the Migration Programme to expand the range of migration pathways available to refugees. While there are barriers which hamper access to these visas by people in need of international protection (such as high costs, robust documentations needs, eligibility requirements, long processing times, limited access to entitlements compared to humanitarian arrivals), these could be addressed with a protection-sensitive migration lens.<sup>19</sup>

MYAN supports the idea of facilitation of the Family stream of the Migration Programme and has suggested to utilize the Family stream as a complementary pathway to protection to ensure family reunification of young people from refugee backgrounds.<sup>20</sup> However, the type of changes suggested in the Bill do not introduce measures to differentiate such people from refugee or refugee-like backgrounds who may arrive in Australia as part of these complementary pathways, and other newly arrived migrants who do not have such backgrounds.

MYAN urges the Committee to consider the specific circumstances of young people from refugee-like backgrounds who may arrive in Australia under complementary pathways of protection, such as the Family stream. MYAN recommends to the Committee to consider this Bill in light of these specific vulnerabilities and circumstances for young people from refugee or refugee-like backgrounds.

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*and Orphan Relative visas (117)*. Available at <http://www.cmy.net.au/publications/young-people-remaining-relative-visas-115-and-orphan-relative-visas-117>.

<sup>18</sup> Complementary pathways serve to increase the range of safe and regulated means by which refugees may reach sustainable solutions to their international protection needs. Complementary pathways may offer permanent solutions immediately or contribute to durable solutions realized progressively through the use of a series of residency permits or visas. Complementary pathways thus afford refugees a wider range of mechanisms – study, work or family reunion – through which they may achieve protection and solutions. Complementary pathways may be a series or suite of mobility schemes or visa options that can be made available to refugees, including through the removal of administrative and other barriers, so they can reach a solution that is durable. For more see, UNHCR (2016) *The 10-Point Plan in Action, 2016 Update, Chapter 7: Solutions for Refugees*. Available at: <http://www.refworld.org/docid/583714a44.html>, p.195.

<sup>19</sup> Australian Human Rights Commission (2016) *Pathways to Protection: A human rights-based response to the flight of asylum seekers by sea*. Canberra: Australian Human Rights Commission, p. 38-39.

<sup>20</sup> MYAN (2018) *Submission to the Department of Home Affairs on 'Managing Australia's Migrant Intake'*. Melbourne: Multicultural Youth Advocacy Network (MYAN), p. 3.



## Annex

### Specific visas for young people under the Family Stream

Orphan Relative (117) and Orphan Relative (837) visas are granted to young people who:

- are under 18 years old at the time of application, and
- are orphans or whose parents are unable to care for them because of severe disability or because their whereabouts is unknown, and
- are outside Australia at the time of application for Orphan Relative (117) visa or
- are inside Australia at the time of application for Orphan Relative (837) visa

They may be sponsored by near relatives who are Australian permanent residents or Australian citizens for a visa to travel to and remain permanently in Australia.<sup>21</sup>

Remaining Relative (115) visa is for young people who are under or over 18 years old, whose only near relatives live in Australia, who are Australian permanent residents or Australian citizens and who can sponsor them, and provide support upon the first two years of arrival in Australia.<sup>22</sup>

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<sup>21</sup> For more see Department of Home Affairs (2018) *Orphan Relative visa (subclass 117)*. Available at:

<https://www.homeaffairs.gov.au/Trav/Visa-1/117-> and Department of Home Affairs (2017) *Orphan Relative visa (subclass 837)*. Available at: <https://www.homeaffairs.gov.au/Trav/Visa-1/837->.

<sup>22</sup> For more see Department of Home Affairs (2018) *Remaining Relative visa (subclass 115)*. Available at: <https://www.homeaffairs.gov.au/Trav/Visa-1/115->