



**AASW**

**Australian Association  
of Social Workers**

*Submission to the Legal and  
Constitutional Affairs Legislation  
Committee  
Re: Migration Legislation Amendment  
(Regional Processing Cohort) Bill*

**November 2016**

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## Introduction

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### Who we are

The Australian Association of Social Workers (AASW) is the professional body representing more than 10,000 social workers throughout Australia.

We set the benchmark for professional education and practice in social work and have a strong voice on matters of social inclusion, social justice, human rights and issues that impact upon the quality of life of all Australians.

### The social work profession

Social work is a tertiary-qualified profession recognised nationally and internationally that supports individuals, families, groups and communities to improve their wellbeing. Principles of social justice, human rights, collective responsibility and respect for diversity are central to the profession and are underpinned by theories of social work, social sciences, humanities and Indigenous knowledge. Social workers practice in a diverse range of settings, including the adoption and child protection fields.

Social workers consider the relationship between biological, psychological, social, cultural and spiritual factors and how they impact on a person's health, wellbeing and development. Accordingly, social workers maintain a dual focus in both assisting with and improving human wellbeing and identifying and addressing any external issues (known as systemic or structural issues) that may have a negative impact, such as inequality, injustice and discrimination.

## Response

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1.1 The AASW strongly opposes the Migration Legislation Amendment (Regional Processing Cohort) Bill 2016, it is unjustified and does not comply with our international human rights and legal obligations. The Bill introduces measures that will unfairly target highly vulnerable populations and provide no greater safeguards to the Australian people. Instead it unfairly discriminates and punishes people who are fleeing persecution, further compounding trauma due to these harsh and extreme measures. Furthermore, the measures may permanently separate families causing unimaginable distress and violating people's fundamental human right to family reunification.

1.2 As a signatory to the relevant United Nations treaties, in particular the United Nations Convention relating to the Status of Refugees, it is the responsibility of the Australian Government to apply the principles of these treaties in responding to the situation of people who seek asylum within Australia, and to those who have been accorded refugee status. In particular the Australian Government has a responsibility to uphold the human rights of asylum seekers and refugees including the right:

- not to be subjected to arbitrary detention, torture, or cruel, inhuman or degrading treatment or punishment and if held in detention, only for the minimum period required to establish security and health status screening
- to challenge in court the legality of their detention
- not to be sent back to a country where their life or freedom would be threatened, and

- to work, housing, education, and physical and mental health care.

1.3 The Bill is another example of the already extreme policies that are in breach of Australia's international legal obligations. The Bill specifically breaches Article 31 of Convention relating to the Status of Refugees by imposing penalties on the basis of people's form of entry:

*1. The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of Article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence.*

1.4 Current Australian Government policies amount to systematic discrimination against already vulnerable people, many of whom have already suffered serious trauma and abuse and are merely exercising their rights under international law to seek sanctuary from fear and oppression for themselves and their families. In this respect Australia is currently failing in its obligations to asylum seekers and refugees. If Australia were to resettle an increased intake of refugees and adequately contribute to the improvement of conditions in countries of origin and first asylum, it may reduce the incentives for asylum seekers to embark upon a potentially dangerous boat trip. Australia would then be in a more credible position to pressure countries in the region to improve their treatment of asylum seekers and push for the adoption of regional standards, thereby reducing the likelihood of irregular secondary movements.

1.5 Asylum seekers arriving in Australia by boat are not breaking the law. The United Nations Convention on Refugees recognises that refugees have a right to enter another country for the purpose of seeking asylum, with or without valid travel documents. As a relatively affluent country Australia should be expected to show leadership and compassion in terms of its treatment of asylum seekers and refugees. The AASW calls for the Australian Government to fully uphold its international obligations to asylum seekers and refugees and in particular to treat all refugees and asylum seekers equally and fairly regardless of whether they seek asylum by boat or by plane.

Submitted for and on behalf of the Australian Association of Social Workers Ltd



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