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New report reveals alarming impact of detention on children

A recently published report by the Human Rights Commission examined the impact of prolonged mandatory, indefinite immigration detention on the mental and physical health of children. The findings were disturbing. In short, detention, whether on Christmas Island, Nauru or centres on the Australian mainland, was found to be dangerous and unsafe for children. 34% of the hundreds of children we visited had severe to moderate mental illness, compared to 2% of children in the Australian community. Their health and wellbeing, and that of their parents, was at risk from cramped conditions in tents and remodelled containers, inadequate health care, even sexual and other assaults.

The findings in the "Forgotten Children Report" have since been confirmed by other government reports, including the Senate Inquiry last year, the earlier Moss Report and also by reviews under the United Nations monitoring mechanisms, leading to the conclusion by the UN Rapporteur on Torture that conditions offshore- tropical heat, poor access to water, inadequate education and medical care- amount to cruel treatment, contrary to the Torture Convention.

Today, Australia continues to detain about 80 children, including 36 babies, at Wickham point in Darwin. About 70 children remain in the Regional processing Centre on Nauru, where they are held in isolation from extended family, friends and legal advice, with no hope for permanent settlement in Australia as refugees.

Since the Forgotten Children's Report was tabled in Parliament the AHR Commission has continued its monitoring role in detention centres. In November last year, findings were reported in respect of the children held at Wickham Point in Darwin. These children along with about 267 others remain vulnerable to removal to Nauru under the Migration Act.

Accompanying the Commission team to Wickham Point were two consultant paediatricians with experience in the health and well-being of asylum seeker and refugee children, Professor Elizabeth Elliott and Dr Hasantha Gunasekera.

At the time of the Commission's visit to Wickham Point there were 164 families with 76 children younger than 18 years. The Commission conducted interviews with 69 of these children and the parents of 15 children who were born in detention. Many of the families and children interviewed had spent time in Nauru and were traumatised at the prospect of a return to the harsh conditions they had experienced

The medical team interviewed and assessed the children using internationally recognised tools appropriate for their ages.

In light of these findings, both the Commission and the two consultant paediatricians recommended to the Government that these children and their families not be returned to Nauru and that they be released into community detention on mainland Australia or granted a bridging visa.

The Commission sent a copy of the paediatrician's report and recommendations to the Department of Immigration and the Minister for Immigration on 6 November 2015. On receiving an inadequate response to its concerns several weeks later, commissioner Grigg wrote again to the Minister for Immigration to reiterate concerns about his public comments reiterating his intention to return the children and their families to Nauru. Since then, the High Court, in a 6:1 decision, has confirmed that Government officials have the legal right under the Constitution, and the retrospective amendments to the Migration Act, to remove the children and their families to Nauru or to any other designated offshore processing centre.

We respect the High Court decision, in so far as it makes clear the constitutional powers of Parliament under Australian law. The Court's decision does not, however, deal with international law, nor with the specific treaty obligations that have been negotiated, signed and ratified by Australia over many decades.

The Commission is concerned that transferring children and their families to Nauru will further compromise their health and wellbeing, placing Australia at serious risk of breaching its obligations under the Convention on the Rights of the Child, the International Covenant on Civil and Political Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Australia has an obligation to the international community to ensure that in all actions concerning children, the best interests of each child is a primary consideration. Indeed, over 60 nations at the UN Human Rights Council in Geneva last November called on Australia to reconsider its current offshore processing policies and to comply with its treaty commitments to refugees, especially children.

Sadly, there is a widening gulf between the constitutional powers of the Australian government and the country's international legal responsibilities. Our national laws, in effect, allow us to wash our hands of the welfare of refugee children once they leave Australia's shores. Our laws impose no standards on Nauru to meet educational and medical needs of refugees. Indeed, the government's chilling defence to claims that it is in breach of its duty of care is that it has no control over the treatment of refugees transferred to Nauru.

Now it seems, it rests with the international community to use its influence to ensure the safety of refugee children under the agreed principles of international law.

Australia's policies of mandatory detention and offshore processing are frequently defended by Governments as necessary to stop the boats and to save lives. This is a profoundly misleading conflation of the two issues. There is little evidence that detaining children for prolonged periods is an effective deterrent to people smugglers. Indeed, both former Ministers of Immigration Scott Morrison and Chris Bowen, have confirmed this under oath to the AHRC Inquiry 18 months ago.

In conclusion, the AHRC urges the Australia government to take the mature and humane decision to temper its technical legal powers with respect for its human rights obligations under the treaties we have accepted.

<https://www.humanrights.gov.au/news/speeches/new-report-reveal-alarming-impact-detention-children>

Veteran MP to retire from Parliament to take up human rights role

Veteran Liberal MP Philip Ruddock has announced his retirement from federal politics, after being announced as Special Envoy for Human Rights.

Foreign Minister Julie Bishop said Mr Ruddock's role would include the promotion of Australia's candidacy for membership of the Human Rights Council.

Mr Ruddock was Minister for Immigration in the Howard Government from 1996 – 2003.

“Mr Ruddock will focus on advancing Australia's human rights priorities of good governance, freedom of expression, gender equality, the rights of indigenous peoples, and national human rights institutions,” she said in a statement.

“Mr Ruddock will actively promote Australia's candidacy for membership of the Human Rights Council for the 2018-20 term. He will represent Australia at international human rights events and advocate our HRC candidacy in selected countries.”

We congratulate him on his political career and wish him well with his new role.

Source: <http://www.abc.net.au/news/2016-02-08/liberal-mp-philip-ruddock-to-retire-from-politics/7149306>

Leaked Government document outlines tougher migration program, increased monitoring of refugees

A leaked Cabinet document suggests Immigration Minister Peter Dutton is planning to make sweeping changes to the Government's humanitarian resettlement program, making it harder to get permanent residency and increasing monitoring of migrants.

The document obtained by Lateline reveals the extent of the Government's concerns about terrorism and the lengths it is prepared to go to keep radicals out of Australia.

Marked "protected", "sensitive" and "cabinet", the document is believed to contain recommendations for Mr. Dutton to present to Cabinet's National Security Committee.

A spokesperson for Mr. Dutton described the paper as a "draft document which has not been seen by the Minister or his staff".

The document points to the recent attacks in Paris and unrest in Germany as it outlines "a package of reforms to simplify Australia's visa framework and create stronger controls over access to permanent residence and citizenship". Those changes include:

- An enforceable integration framework to assess aspiring migrants' suitability for life in Australia
- A revamped citizenship test and citizenship pledge
- Enhanced access, use and protection of sensitive information to strengthen intelligence-led, risk-based decision making, from pre-visa stage through to post-citizenship conferral.

Presumably, that would mean refugees brought to Australia under its humanitarian program would be closely monitored, even after they become Australian citizens.

The document says Mr. Dutton will bring forward the proposals in the first half of 2016 "to reform the visa framework and remove direct access to permanent residence to better align visa and citizenship decision-making with national security and community protection outcomes".

Removing direct access to permanent residence would see bona fide refugees accepted by Australia no longer given the certainty of a life in Australia.

<http://www.abc.net.au/news/2016-02-04/leaked-document-outlines-changes-to-migration/7140952>

Another bumper year for Australian International education

Our international education sector is thriving with preliminary data today showing export income from education services was \$19.65 billion in 2015 – an increase of 11.5 per cent since 2014 – according to the Australian Bureau of Statistics (ABS) data.

People traveling for educational purposes continues to be a large contributor to our thriving tourism industry with education related travel increasing by approximately 13 per cent during 2015 compared to the previous year.

These latest figures confirm the growing importance of international education in the context of Australia's twenty-first century knowledge economy.

International education makes an exceptional contribution to Australian society, culture, international standing, and economic prosperity and it provides opportunities for people to experience different countries, languages and cultures.

The latest global education data from the OECD showed Australia was the third most popular

study destination for international student after the USA and UK and one of the few major destination countries to increase its global market share over the last decade.

Most Australians think of minerals or agricultural produce when asked about our top export earners, however international education is actually Australia's largest services export and is one of five key sectors that will provide economic growth into the future.

As Australia transitions from a resources based economy, to one supported by the services industries, the government will be working hard to ensure our existing successful and competitive services exports are well supported for future growth.

International education has been growing at an average of six per cent per year for the last ten years and the Government is committed to furthering this growth.

I am leading work on a national strategy for international education, which is all about collaborating – across governments, across sectors and always through people-to-people links.

The national strategy will be based around three pillars - strengthening the fundamentals, building the partnerships and competing in the global environment, which are designed to underpin and support international education into the future.

<https://ministers.education.gov.au/colbeck/another-bumper-year-australian-international-education>

Victorian Court Slaps Hefty Fine for Fake Immigration Program

Immigration fraud is continuing to face harsh penalties in Australia. A Federal Court in Victoria recently imposed a hefty fine on an immigration training company. The Melbourne-based firm reportedly duped many clients with false promises of permanent residency.

The Court indicted Clinica Internationale Pty Ltd and its managing director Radovan Laski for false, misleading and unconscionable conduct. The Judge slapped a penalty of \$700,000 on Clinica and \$325,000 on Laski.

“What happened bore little or no resemblance to what clients had been promised, and what they paid for,” Federal Court Judge Debra Mortimer said. But Laski denied the charges. Justice Mortimer indicated that she would order a review of the contracts between Clinica and clients.

According to the Australia Competition and Consumer Commission, Clinica enrolled 97 people in its program between August 2012 and July 2013. It collected more than \$800,000 from the aspirants. But employment was offered only to 10 people, reports 9 News.

Clinica falsely promised clients that it would provide Certificate III cleaning training and place them on a job. The job may be in regional Australia. But it would qualify them for a permanent residence visa. Clinica has also spread the word that it has influence with officers in helping clients to apply for the visa.

But many job aspirants ultimately landed in odd jobs at abattoirs. One Sourab Uppal told the court he paid \$2000 to join the asset management course. But he was placed on a cleaning job at an abattoir. “To my horror, the work did not involve cleaning, but rather cutting off the legs of dead goats and sheep,” Uppal said.

One witness, Lauris Fahey told the Court that Laski used to boast how he exploited the migrants. She said many former clients had sued Laski but he would use delaying tactics to make sure the clients' visa expired before they could finalize their claims.

<http://www.australianetworknews.com/victorian-court-slaps-hefty-fine-fake-immigration-program/>

Next step for new Entrepreneur visa begins

Joint media release with the Hon Peter Dutton MP, Minister for Immigration and Border Protection and the Hon Christopher Pyne MP, Minister for Industry, Innovation and Science.

A consultation process for a new Entrepreneur visa will start on seeking feedback on the proposed settings for the visa. The Minister for Industry, Innovation and Science, Christopher Pyne, said we want to attract the best and brightest entrepreneurial talent and skills to Australia. "It is critical for Australia's prosperity and growth, that we not only tap into the best entrepreneurial minds in Australia, but we also make it easier for talent from overseas to contribute to this country's innovative future," Mr Pyne said.

"We are also keen to retain those educated and talented people, who have come to Australia and developed their knowledge base during their time in this country."

The Minister for Immigration and Border Protection, Peter Dutton, said the visa would help promote innovation and encourage individuals to take part in the consultation process.

"Under the National Innovation and Science Agenda [NISA], the new Entrepreneur visa will facilitate the entry to Australia and stay of entrepreneurs with innovative ideas and financial backing from a third party," Mr Dutton said.

"I encourage individuals to provide their feedback as part of the consultation process to ensure the visa achieves the desired outcome."

The new Entrepreneur visa will be introduced in November 2016.

The Department of Immigration and Border Protection is seeking feedback on the proposed policy settings for the new visa – further information can be found on the Department's website at:

<http://www.border.gov.au/about/reports-publications/discussion-papers-submissions>

The Department also welcomes feedback from other interested parties, who may make submissions in response to a set of consultation questions available online at:

<http://www.border.gov.au/about/reports-publications/discussion-papers-submissions/entrepreneur-visa>

Submissions will be open until Friday 18 March 2016.

<http://www.minister.border.gov.au/peterdutton/2016/Pages/entrepreneur-visa.aspx>

Submissions open for the 2016-17 Humanitarian Programme

The Australian public is invited to provide submissions to be considered in the planning and development of Australia's Humanitarian Programme for 2016-17. The Minister for Immigration and Border Protection Peter Dutton said the consultation process will inform the Government's decision about the size and composition of the programme.

Australia has a proud record of resettling refugees and people in humanitarian need from around the world," Mr Dutton said.

Since 1947, Australia has welcomed more than 825,000 people from different countries under the Humanitarian Programme in response to changing global resettlement needs."

The programme provides permanent resettlement to those most in need, who are in desperate situation overseas, including in refugee camps and protracted humanitarian situations.

Australia is one of only a small number of countries that operate an annual permanent resettlement programme and ranks in the top three resettlement countries each year, along with the United States and Canada, Mr. Dutton said. The Government has committed to increase the size of the Humanitarian Programme from the current level of 13,750 places up to 16,250 places in 2017-18 and 18,750 places in 2018-19.

On 9 September 2015, the Government announced an additional 12,000 places to resettle people displaced by conflicts in Syria and Iraq.

A discussion paper *Australia's Humanitarian Programme 2016-17* is now available on the Department of immigration and Border Protection's website at border.gov.au.

Source: <http://www.minister.border.gov.au/peterdutton/2016/Pages/submissions-humanitarian-programme.aspx>

High Performing International Graduates of South Australia

Immigration SA recognises high performing international graduates from South Australian public universities.

Immigration SA is making it easier for talented international graduates of South Australian public universities to qualify for state nomination through the "**high performing graduate**" category.

Immigration SA offers state nomination to international graduates of South Australia who meet [state](#) and [federal](#) government requirements for a 190 or 489 General Skilled Migration visa.

Benefits of the 'high performing graduate' category include:

- Access to a more extensive list of occupations on either the [State Occupation List](#) or the [Supplementary Skilled List](#).
- Waivers to Immigration SA's [work experience](#) and [English language requirements](#)

They will still need to meet the English and work experience required for their skills assessment and registration (if their occupation requires registration).

High performing graduates

To qualify as a high performing graduate, they will need to be **currently residing in South Australia and have completed one of the following qualifications at a South Australian public university (in the last two years) with the required Grade Point Average (GPA) listed below:**

- PhD or Masters by Research.
- GPA of 6.0 or above in a Masters by Coursework degree (following completion of a Bachelor degree in South Australia).
- First Class Honours in a dedicated Honours year (following completion of a Bachelor degree in South Australia).
- GPA of 6.0 or above in a Bachelor degree.

Their GPA is listed on your academic transcript. The three South Australian public universities are: Flinders University, University of Adelaide and University of South Australia.

Source: (<http://www.migration.sa.gov.au/International-graduates/high-performing-international-graduates-of-south-australia>)

An additional pathway to permanent residence for ‘non-protected’ Special Category Visa (SCV) holders (Some New Zealand citizens in Australia)

Options for permanent residence for 'non-protected' SCV holders

In acknowledgment of our special bilateral relationship, the Australian Government will provide an additional pathway to permanent residence, and therefore ultimately to citizenship, for New Zealand Special Category visa (SCV) holders who arrived after 26 February 2001, who have lived in Australia for the last five years and shown a commitment and contribution to Australia.

This additional visa pathway will be available from 1 July 2017, for New Zealand citizens who arrived post 26 February 2001, but on or before, the date of the announcement, 19 February 2016.

How this Pathway will work

The Department of Immigration and Border Protection will have responsibility for implementing the pathway.

The pathway will be made available within the Skilled Independent category of the General Skilled Migration (GSM) stream of Australia's annual Migration Programme.

This pathway will allow SCV holders who have been living in Australia for the past five years, and have earned income at or above the Temporary Skilled Migration Income Threshold

(TSMIT) as evidenced by their Australian Taxation Office Notice of Assessment throughout their qualifying residence period, to apply for permanent residency and thereafter citizenship.

The pathway requirements

Requirements for this visa pathway will include mandatory residence, contribution and community protection criteria. This includes:

- have been resident in Australia for the five years immediately prior to visa application
- contributed to Australia, demonstrated through income tax returns (Notice of Assessment) for the period of residence evidencing taxable income at or above the Temporary Skilled Migration Income Threshold (TSMIT)
- mandatory health, character, and security checks.

Eligible applicants not in Australia the day of the announcement

If an applicant meets all relevant criteria and can demonstrate they were resident on the date of announcement, they will be eligible.

(Full details of how the program will work and eligibility criteria have still to be announced and no applications can yet be made.)

Estimated number of eligible applicants

Approximately 60,000 – 70,000 of the 140,000 post 2001 SCV holders who have been in Australia for at least five years are expected to be eligible.

Temporary Skilled Migration Income Threshold (TSMIT) and eligibility

The Temporary Skilled Migration Income Threshold (TSMIT) is a salary threshold used by the 457 programme as an indicator that an occupation is skilled and to ensure that a visa holder has reasonable means of support whilst in Australia. It is currently set at AUD53,900.

Setting the eligibility threshold at the TSMIT ensures we are providing a pathway to prospective citizens who can make a strong contribution to Australia's future.

This is consistent with the economic objectives of Australia's Migration Programme, as it takes into account a level of contribution based on income tax returns.

Enabling Special Category visa holders to supply evidence from tax returns provides a concession to requirements relative to citizens of other countries, as it does not duplicate existing government requirements and is not onerous, but provides clear evidence of contribution.

This represents a clear concession over existing migration pathways. It reflects the ease of mobility under the Trans-Tasman Travel Arrangement (TTTA), while retaining a focus on skilled migration through a demonstrated contribution to Australia's income tax system.

Steps to become an Australian citizen

- Eligible New Zealand citizens taking advantage of this pathway will usually be able to apply for citizenship after one year of permanent residence, provided they meet the residence and character requirements.
- Note: The residence requirement generally means, a person must not have been absent from Australia for more than one year in total in the four year period, including no more than 90 days in the year before applying
- The other usual citizenship eligibility requirements will apply such as:
 - be of good character if 18 years of age or over
 - be likely to reside, or continue to reside, or maintain a close and continuing relationship to Australia
 - meet the identity requirement
 - pass the citizenship test if aged between 18 and 59 years or pass a citizenship interview.
- Note: All applicants must submit a valid application and pay the relevant fee.

Source: <http://www.border.gov.au/Visasupport/Pages/an-additional-pathway.aspx>

Labor pledges to crack down on employers who exploit workers

Labor has promised to crack down on the exploitation of workers by significantly increasing penalties for employers who underpay workers, to more than \$200,000 for individuals and more than \$1m for corporations.

A Labor government would also tighten legal protections for workers exploited in so-called “sham” contracts, where employers hire workers as subcontractors to avoid entitlements such as annual leave and sick leave.

Labor promised to give the fair work ombudsman more power to chase down employers who liquidate companies to avoid worker entitlements.

It would also increase the penalties for employers who exploit temporary overseas workers. There are 732,750 temporary workers in Australia, including students, 457 visa workers and working holidaymakers.

Labor would impose a new criminal offence for employers who “deliberately exploit temporary overseas workers”, even if they are employing the worker within the terms of their visa. The offence would be punishable by fines and up to two years’ imprisonment.

Labor’s employment and workplace relations spokesman, Brendan O’Connor, said the recent spate of cases involving underpayment, sham contracting and other exploitation required action.

“We will consult employers and their representatives, workers and unions on the scale of the increase to penalties to ensure there is an appropriate deterrent in place to protect workers from unscrupulous employers.”

In the past year, two 7-Eleven convenience stores have had their franchise agreements terminated for underpaying workers after a Fairfax investigation.

Pizza Hut delivery drivers have alleged they were paid rates as low as \$12 an hour while providing their own car, fuel and vehicle maintenance.

The fair work ombudsman is investigating the case of retailer Myer, whose cleaners alleged they were denied pay and entitlements through the use of sham contracts and subcontracting.

Baiada food processing factories faced allegations of exploitation and the fair work ombudsman found young poultry workers were paid as little as \$11.50 an hour.

Labor announced the policy on the eve of the resumption of Parliament sittings in February 2016.

<http://www.theguardian.com/australia-news/2016/feb/01/labor-pledges-to-crack-down-on-employers-who-exploit-workers>

7-Eleven worker paid as little as 47 cents an hour, lawyers says

A Pakistani student was paid as little as 47 cents an hour to work at a 7-Eleven store in Sydney, lawyers representing employees of the convenience store chain have said.

ABC's Four Corners program and Fairfax last year revealed workers at the convenience stores were systematically paid about half the minimum wage, with many of those affected being foreign workers.

The convenience store chain set up an independent panel to assess the claims of about 20,000 past and present workers from 7-Eleven franchises.

Maurice Blackburn Lawyers is representing 60 workers who are claiming back pay from 7-Eleven.

They said one Pakistani student, named Sohail, was paid one lump sum of \$325 for about 685 hours of work at a Sydney store.

Two other workers have already been paid, with one of them — student Pranay Alawala — receiving \$33,000 in back pay.

Mr Alawala worked in three 7-Eleven stores in Brisbane, where his pay varied between \$12 to \$15 an hour.

He also performed "training" work for a week, for which he was not paid at all.

When he complained, Mr Alawala's employer told him they would tell Immigration officials that he had been working too many hours, which was in breach of his student visa.

7-Eleven workers 'unaware of their rights'

Giri Sivaraman from Maurice Blackburn Lawyers said all of the 60 past and present 7-Eleven workers whom the law firm was representing had been completely unaware of their rights.

"They're unaware of what they should be paid, they're unaware of their rights in relation to safety, they're unaware of their rights to take breaks and of their rights to complain," he said.

"That makes them very vulnerable to exploitation and can lead to workers getting paid 47 cents an hour."

The law firm also joined affected workers and unions in calling on the Federal Government to establish mandatory employment education programs for international students and those on working visas.

"It's known to the government who they are and the type of visa they're on, so we don't think it's a significant step to provide them with more information," Mr Sivaraman said.

A spokesman for 7-Eleven said in a statement the company was "appalled" by the wage exploitation issue and did not condone the underpayment of workers.

He said workers should be afforded all of their rights and the company was acting to eradicate the practice by appointing a special investigator, improving payroll oversight and introducing store audits.

The spokesman said mandatory employment education was a matter for the Federal Government, but said it had introduced new training for franchisees to remind them of their obligations to their workers.

<http://www.abc.net.au/news/2016-02-15/7-eleven-worker-paid-as-little-as-47c-an-hour-lawyers-say/7168216>

A.P.B. Education

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