



## SUBMISSION

### Ending Indefinite and Arbitrary Immigration Detention Bill 2021

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## About South East Community Links (SECL)

Our Mission: 'Every person counts, Every system fair'

Since 1970 SECL has operated in one of Melbourne's highest multicultural and fastest growing regions. Based in the South East of Melbourne, SECL's reach is mainly in the City of Greater Dandenong, City of Casey, and Shire of Cardinia.

Our services include:

- Emergency Relief with a focus on working to address the underlying cause of the crisis.
- Generalist Case Work to work with people to set goals and engage in society.
- Homelessness and housing support for young people.
- Family violence support and early intervention programs.
- Financial Counselling with expertise in Generalist, Family Violence Financial Counselling and Problem Gambling Financial Counselling.
- Resettlement services to support refugees and asylum seekers learn and grow in our society.

South East Community Links (SECL) welcome the opportunity to comment on the *Ending Indefinite and Arbitrary Immigration Bill 2021*.

We write in support of this Bill in its entirety, and make these additional observations and recommendations based on the history and expertise of SECL:

SECL believe there is correlation between the United Nations (UN) sustainable development goals<sup>1</sup> and this Bill. Ending indefinite detention at an individual level ensures people are treated with dignity and provided with the opportunity to contribute to the Australian economy. At a systems level we believe this Bill intersects with 9 of the 17 UN sustainable development goals as follows:

- Goal 1: No Poverty
- Goal 2: Zero Hunger
- Goal 3: Good Health & well-being
- Goal 4: Quality Education
- Goal 8: Decent Work & Economic Growth
- Goal 10: Reduced inequality within and among countries
- Goal 11: Make cities & human settlement inclusive, safe, resilient & sustainable
- Goal 16: Promote peaceful & inclusive societies for sustainable development, provide access to justice for all and build effective, accountable & inclusive institutions at all levels.

In relation to 12 (5) which grants bridging visas to individuals, it is important to recognise that the *Migration Act 1958* is complex in its scope and does not include time frames for assessing residency applications for people on bridging visas, or any subsequent appeals. SECL recommend legislating timelines for processing people granted bridging visas in keeping the principles of this proposed Bill as a future piece of work.

Specifically commenting on 13 (1)(b) of the proposed Bill we recommend the proposed right to work be passed without amendment. The lack of work rights on some temporary and bridging visas has an enormous impact on the ability of people to participate meaningfully while waiting for their status to be resolved, impacting on all aspects of health, wellbeing and social and economic inclusion as illustrated in the case study below. The cost of supporting people without work rights on communities, health care systems and emergency relief services is significant.

#### **Avanthi's\* story**

Avanthi\* and her husband have been accessing SECL services for more than 10 years, and for the last 3 ½ years have been working with a financial counsellor.

They have been in Australia since 2008 after arriving from Sri Lanka and sought asylum. In May 2014 their application for review for a permanent visa was rejected. Since then, Avanthi\* and her husband have been on Bridging Visa E, with no work rights. They have three children aged under 12, who were born in Australia.

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<sup>1</sup> United Nations Sustainable Development Goals <https://sdgs.un.org/goals>

While in receipt of sporadic support from Red Cross, SECL and other community organisations, the sole reliable income for this family of five is the Special Benefit Payment, for which the eldest child became eligible when she was granted citizenship when she turned 12.

In the 8 years thus far that Avanthi\* has been on BVE, SECL have repeatedly assisted her family with emergency relief and advocacy to when at risk of homelessness and/or disconnection of essential services. This includes access to essential items such as food, and ensuring the family have access to transport.

We have provided a warm referral for Avanthi\* to a Mental Health Support Hub, as she suffers ongoing depression due to the family's precarious residency and financial position. Her younger children are also becoming aware of their situation and concerned by their mother's deteriorating health.

Avanthi\* has stated that, if given work rights, she and her partner would be happy to do the jobs that cannot currently be filled due to Covid19 border restrictions.

\*name is a pseudonym

Allowing all asylum seekers like Avanthi and her husband to work, regardless of their visa status, would be both a compassionate and pragmatic change in Government policy which would:

- increase tax revenue,
- increase small business's ability to function during Covid19,
- reduce the demands on health systems,
- improve the wellbeing of the families,
- reduce the demands on Financial Counsellors and emergency relief teams.

With work rights people can contribute to the Australian economy, are able to demonstrate their value as Australian residents and fill gaps in labour shortages. It is SECL's view that all visas for people waiting status resolution include the right to work. This would go some way to offsetting the impact of remaining in Australia, in some cases for many years, while application for a more permanent visa is processed under the current system and ensures people are ready to be productive members of society.

#### **Other related matters:**

Unlike other democratic western countries, Australia is yet to enact a bill of rights. The Commonwealth argument has been that citizens' rights are protected in Australia's constitution and parliamentary legislation. While this is true more can be done to ensure that Australia upholds our commitment to international human rights treaties we have signed.

Australia, as a signatory to the United Nations (UN) convention for refugees, has been consistent in its effort to provide humanitarian support beyond its border, offering offshore refugee humanitarian processes and supporting peace in other countries. Unfortunately, in recent years, the Commonwealth approach to immigration issues appears contrary to the convention and undermines Australia's obligation to uphold the

principles of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment<sup>2</sup>.

Such deviation from the Universal Declaration of Human Rights (UDHR) treaty signed by the Australian government was noted by many eminent Australians including Hon. Justice Kerby, George Williams and Fr Frank Brennan SJ, who called for the enactment of a bill of rights in Australia. In his address to the constitutional centenary foundation (NSW Chapter) in October 1995, Hon. Michael Kerby argued and articulated “the fundamental reasons [...] to support a constitutional bill of rights [...] are:

- The adoption of such a constitutional reform would make much more legitimate moves that have already occurred to some extent in the courts, but without the specific endorsement of the people of Australia;
- Legislators constantly fail to attend to the controversial issues of basic rights. The gaps in their attention should be filled by the courts, deriving a fresh source of legitimacy and authority from a Bill of Rights adopted by the people of Australia;
- Adoption of a Bill of Rights would enable and promote civic education in the fundamental bases upon which Australians live together; and
- Acceptance of a Bill of Rights, limiting the powers of Parliaments, would reflect the modern understanding of democracy in Australia”<sup>3</sup>

These features provide compelling reasons to enact a bill of rights in Australia. The *Ending Indefinite and Arbitrary Immigration Detention Bill 2021* provides an opportunity to echo the call for the enactment of a Bill of Rights. Arguably, a bill of rights act would comprehensively address recent negligence in the Commonwealth’s immigration system and restore the positive image of Australia and our responsibilities as Global citizens.

SECL request that the Federal Government reflect and consider the findings and recommendations filed and cited in the National Human Rights Consultation report, 2009<sup>4</sup>. Especially *Part three reform options* pg 129 and *Part four A human rights act?* pg 229. Doing so and legislating a Bill of Rights in Australia will provide the Government the opportunity to work bilaterally with both global north countries and the periphery countries ensuring that peace and economic development that improve the livelihood of the citizens is realised<sup>5</sup>. This is in line with the global peace index – a vision of humanity to review and improve Australia status in peacebuilding.<sup>6</sup>

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<sup>2</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment <https://www.ohchr.org/en/professionalinterest/pages/cat.aspx>

<sup>3</sup> A Bill of Rights for Australia -What role should the courts play <https://studylib.net/doc/7420038/1288---a-bill-of-rights-for-australia>.

<sup>4</sup> Fr Frank Brennan SJ, National Human Rights Consultation Report, 2009 <<https://alhr.org.au/wp/wp-content/uploads/2018/02/National-Human-Rights-Consultation-Report-2009-copy.pdf>

<sup>5</sup> <https://sustainabledevelopment.un.org/content/documents/11803Official-List-of-Proposed-SDG-Indicators.pdf>

<sup>6</sup> 2021 Global Peace Index <https://www.visionofhumanity.org/wp-content/uploads/2021/06/GPI-2021-A3-map-poster-1.pdf>