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8 May 2016

The Hon. Gabrielle Upton MP  
Attorney General of New South Wales  
GPO Box 5341  
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**By email:** [office@upton.minister.nsw.gov.au](mailto:office@upton.minister.nsw.gov.au)

CC:

The Hon. Mike Baird MP  
Premier of New South Wales

**Submitted at:** [www.nsw.gov.au/your-government/contact-premier-new-south-wales](http://www.nsw.gov.au/your-government/contact-premier-new-south-wales)

Dear Attorney General,

### **Refugee Processing Legacy Caseload Initiative**

I am President of Australian Lawyers for Human Rights (ALHR). ALHR is a leading national human rights organisation established in 1993 and is a network of Australian solicitors, barristers, academics, judicial officers and law students who practise and promote international human rights law in Australia. ALHR has active and engaged National, State and Territory committees and a secretariat at La Trobe University Law School in Melbourne.

On Sunday 17 April 2016, I attended the launch of the Victorian Legal Aid Legacy Caseload Initiative in my position as president of the Australian Lawyers for Human Rights (ALHR). This initiative is in partnership with Justice Connect, Refugee Legal (Refugee and Immigration Legal Centre Inc) and the Asylum Seeker Resource Centre. It was an inspiring occasion which made me proud to be Australian.

The Initiative was launched by the Hon Martin Pakula MP, Attorney General of Victoria and will improve access to legal services for people seeking asylum in Australia. The Initiative will provide a fair-go to asylum seekers with difficulties understanding the legal process, due to language barriers or mental health issues caused by torture or trauma, and ensure they

receive the legal assistance they need. During the next two years, the Legacy Caseload Initiative will provide two specialist immigration lawyers, a coordinator to finalise pro bono or low cost legal assistance and three lawyers at Refugee Legal.

In 2014, the Commonwealth Government withdrew most legal assistance funding for asylum seekers who had arrived in Australia by boat between August 2012 and January 2014. These asylum seekers, known as the 'Legacy Caseload', were further disadvantaged by changes to Commonwealth legislation, which denies them the right to review an adverse primary decision affecting their refugee claim.

The Victorian Government has committed to providing funding for legal assistance and advice for the 11,000 Legacy Caseload arrivals currently living in the community on bridging visas or held in immigration detention. Through the Victorian Community Legal Centres Assistance Fund, the Government has provided \$50,000 to Refugee Legal to expand its migration advice services in Melbourne and across rural and regional Victoria. The grant to Refugee Legal is part of \$2 million provided over two years to community legal centres for a range of key frontline resources and programs.

As you would be aware, Australia stands alone amongst democratic nations as being bereft of a bill of rights or human rights charter by means of which to legally protect basic human rights. Whilst Australia is a party to all the core international human rights treaties, the Commonwealth Government has fallen significantly short of domestically implementing our outstanding international human rights obligations. This record of failure has recently been the subject of significant scrutiny and criticism by the international community at Australia's second Universal Periodic Review before the UN Human Rights Council, where 110 UN member states made 290 recommendations as to how Australia can improve its human rights record. An unprecedented incident in international law also occurred in March 2015 when Juan Mendez, the UN Special Rapporteur on Torture, declared that Australia's offshore processing camps on Manus Island and Nauru were in breach of the *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. Freedom from torture is a non-derogable fundamental human right at international law.

ALHR commends the Victorian Government's moral leadership in launching the Legacy Caseload Initiative and thereby securing provision of the legal support that people seeking asylum are entitled to under international law. Presently, such legal support is being denied by the Commonwealth Government. Recent events demonstrate that State and Territory

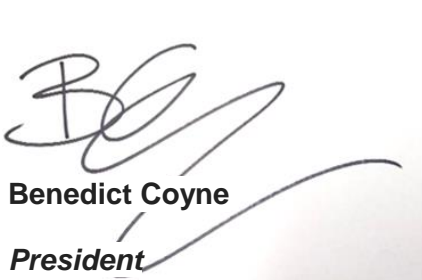
governments can take important and meaningful steps to protecting basic universally-recognised human rights where the Commonwealth Government will not.

For example, ALHR applauds New South Wales Premier Mike Baird's compassionate offer to settle some of the families brought to Australia from Nauru and his endorsement of Premier Andrew's letter to the Prime Minister regarding the future of those families. Furthermore, ALHR commend the Premier's decision to extend transport concessions to asylum seekers. We recognise this small measure will have a significant positive impact on the lives of asylum seekers in the community.

The Refugee Processing Legacy Caseload Initiative represents a practical legal measure that will genuinely assist in the protection of fundamental human rights for some of the most vulnerable people in Australia. ALHR is writing to you to engage in a conversation to see whether your Ministry, department and government will implement a similar initiative in New South Wales. We are keen to meet with you to discuss this important issue.

We thank you for your consideration and look forward to hearing from you.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'BC', is written over a light grey rectangular background. The signature is fluid and cursive.

**Benedict Coyne**

***President***

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