

Community Law Centres o
Aotearoa presentation to
NACLC Conference,
Brisbane, Australia,
August 28,2019

Tackling trans-Tasman Injustice

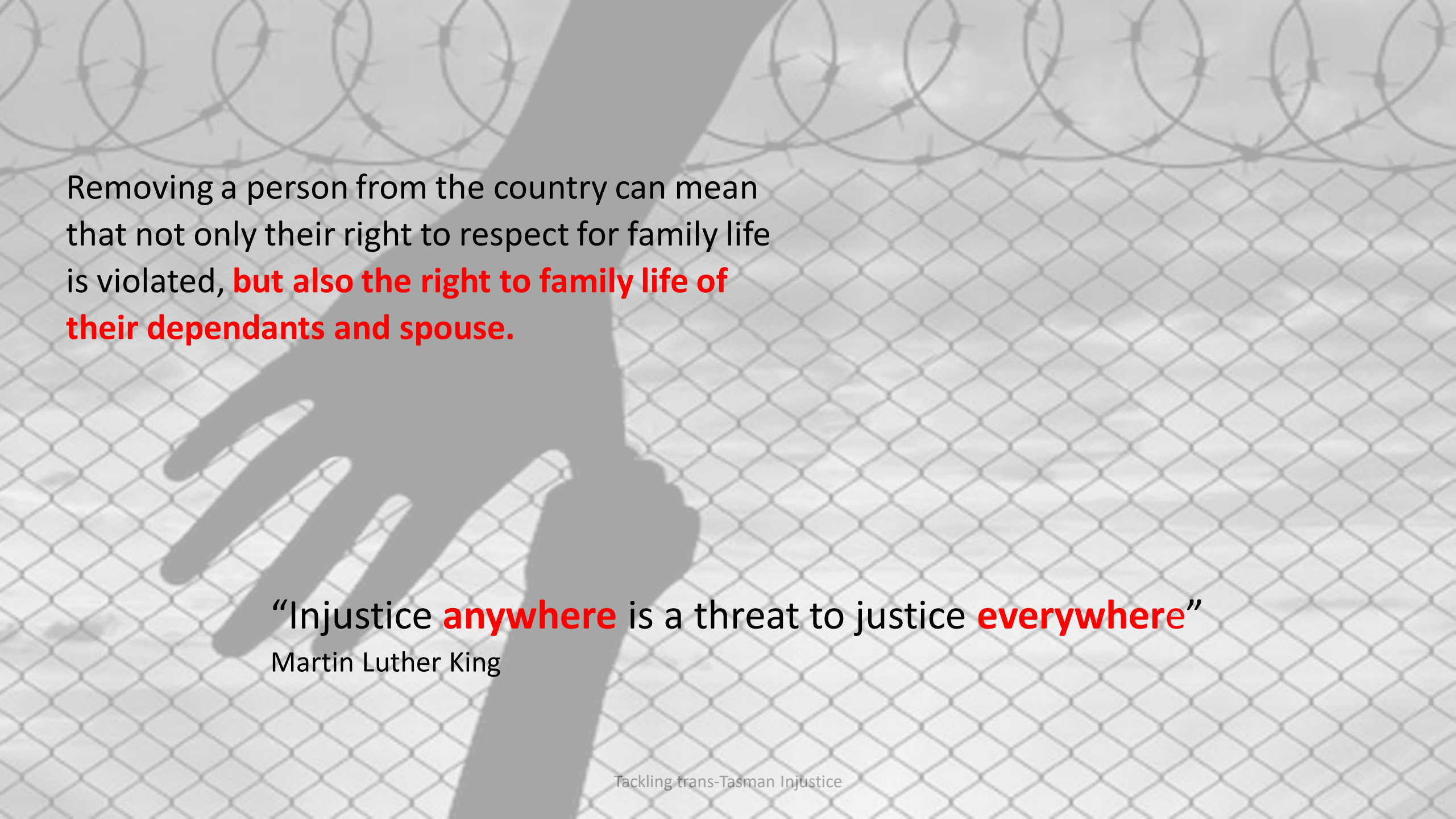


The Issue:

In 2014 the Australian Government amended Section 501 of the Migration Act to widen the range of reasons non-citizens could be deported from Australia.

- The impact has seen people detained following serving their sentences, sometimes for minor or historic offences
- Some have been detained and deported because of organisations they associate with;
- Some have been deported to countries they have not lived in for many years.

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- The background of the slide features a white, torn-paper-style border. Inside this border, there are dark grey silhouettes of a family consisting of a man, a woman, and a child, walking from left to right. The man is on the right, the woman is in the middle, and the child is on the left, holding the woman's hand.
1. More than **3000** New Zealanders have been deported since 2014.
 2. Around **175** people currently detained in the immigration detention centres in Australia
 3. **664** New Zealanders have had their visas cancelled this year
 4. Of the around **600,000** New Zealanders living in Australia around **400,000** of them are not Australian Citizens.

A grayscale image of a hand reaching out and touching a chain-link fence. At the top of the image, there are several strands of barbed wire. The background behind the fence is a cloudy sky.

Removing a person from the country can mean that not only their right to respect for family life is violated, **but also the right to family life of their dependants and spouse.**

“Injustice **anywhere** is a threat to justice **everywhere**”

Martin Luther King

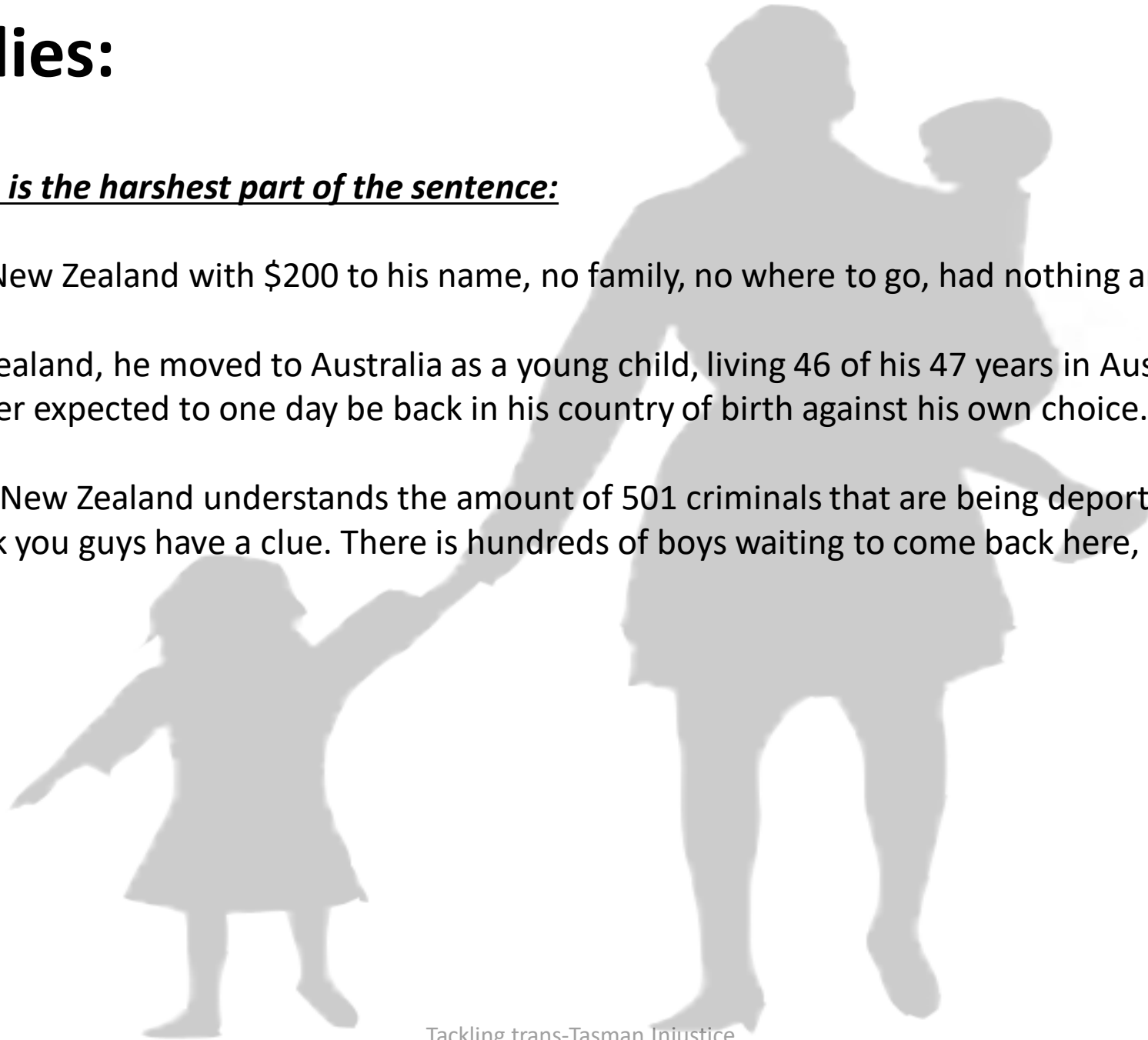
Case Studies:

When coming home is the harshest part of the sentence:

Harry: deported to New Zealand with \$200 to his name, no family, no where to go, had nothing and knew no one.

John: Born in New Zealand, he moved to Australia as a young child, living 46 of his 47 years in Australia. Growing up as an Aussie, he never expected to one day be back in his country of birth against his own choice.

Mark: “I don’t think New Zealand understands the amount of 501 criminals that are being deported back into the country. I don’t think you guys have a clue. There is hundreds of boys waiting to come back here, Australia does not care.”





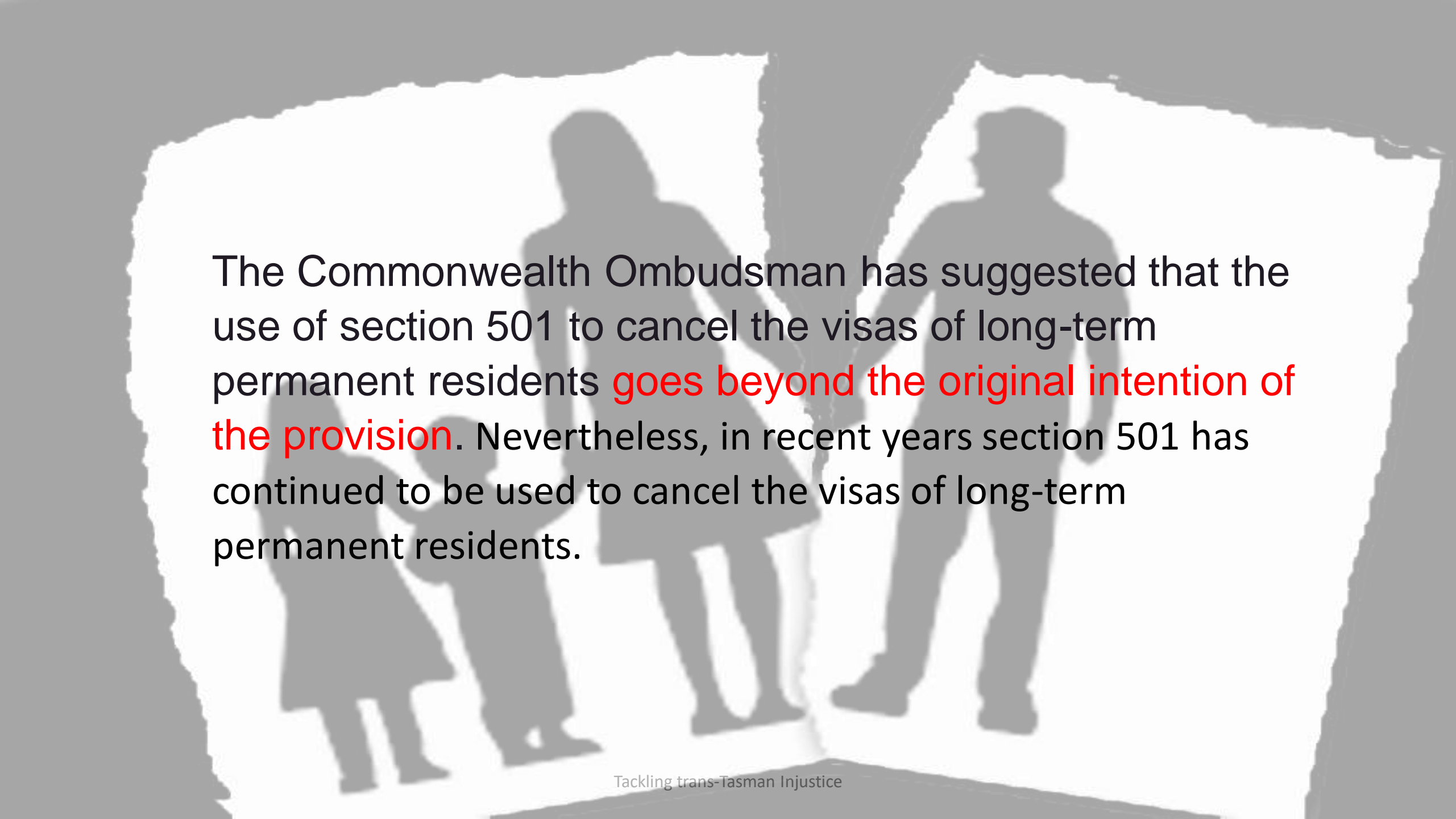
When deportees arrive in New Zealand, the **Prisoners Aid and Rehabilitation Society** is funded by government to assist 501's in New Zealand.

The **New Zealand Government** has registered concerns around the issues of deportation.

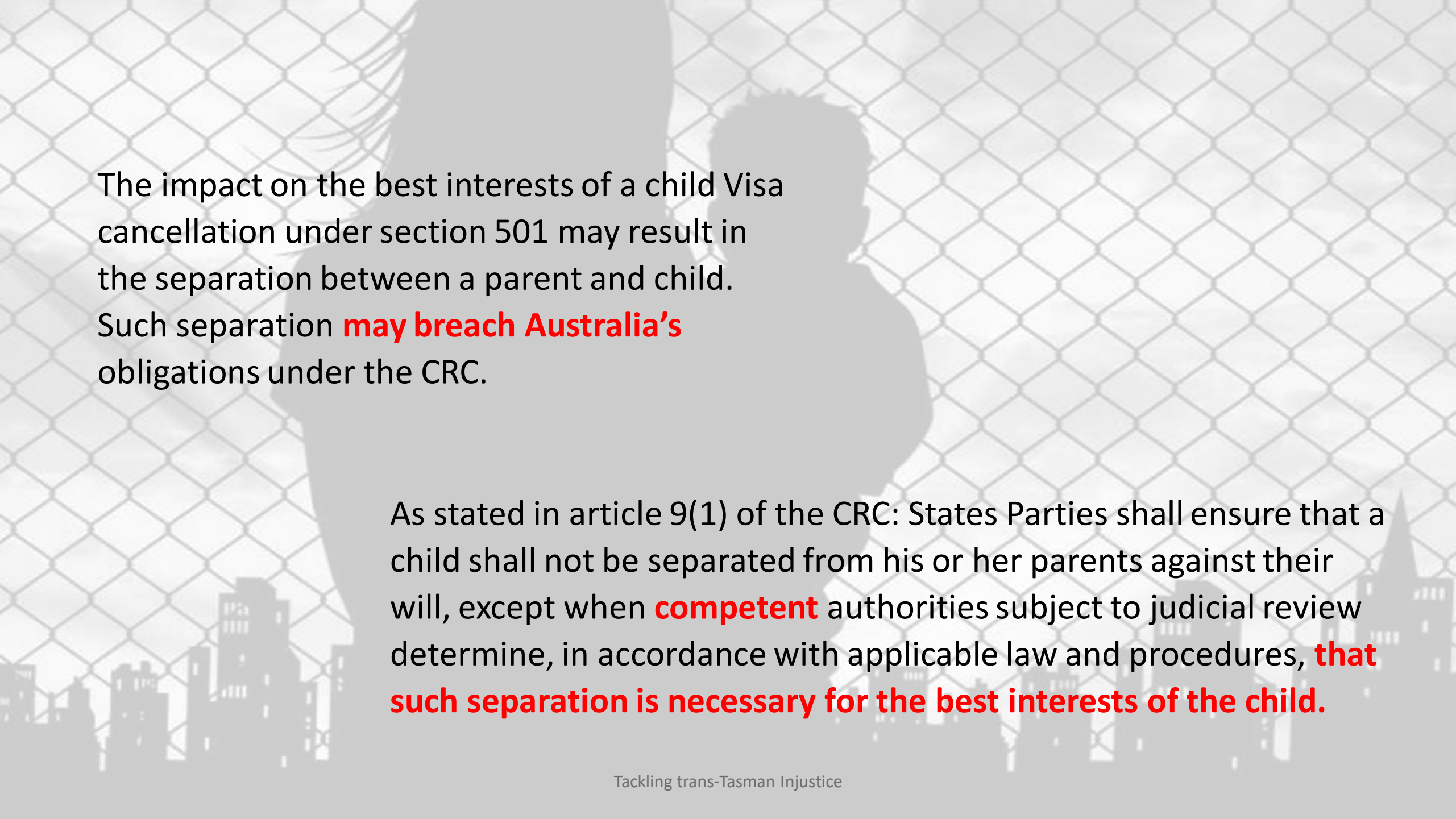
The **NZ Prime Minister** has stated that this issue is corrosive to the relationship between countries, however, the NZ Government has not yet taken other actions around this issue.

The Australian stance:

1. **Malcolm Turnbull**, Prime Minister, described the process as “fair and just”
2. **United Nations** have raised concerns around the conditions of detention centres
3. **Iwi N Aus** – provides assistance around visa applications and Citizenships assistance
4. **The Australian government** currently has a bill in front of parliament that will make matters worse by ensuring more people would **fail the character test**.
5. **Australian Foreign Minister Marise Payne**: “Australia has “no intention” of reviewing legislation around the deportation of Kiwis even if they haven't set foot in New Zealand before”.
6. **What else?**

The background of the slide features a white, torn-paper-like shape on a grey background. Inside this white shape, there are dark grey silhouettes of a family consisting of a woman, a man, and a child, and another silhouette of a man standing to the right. The text is overlaid on the white area.

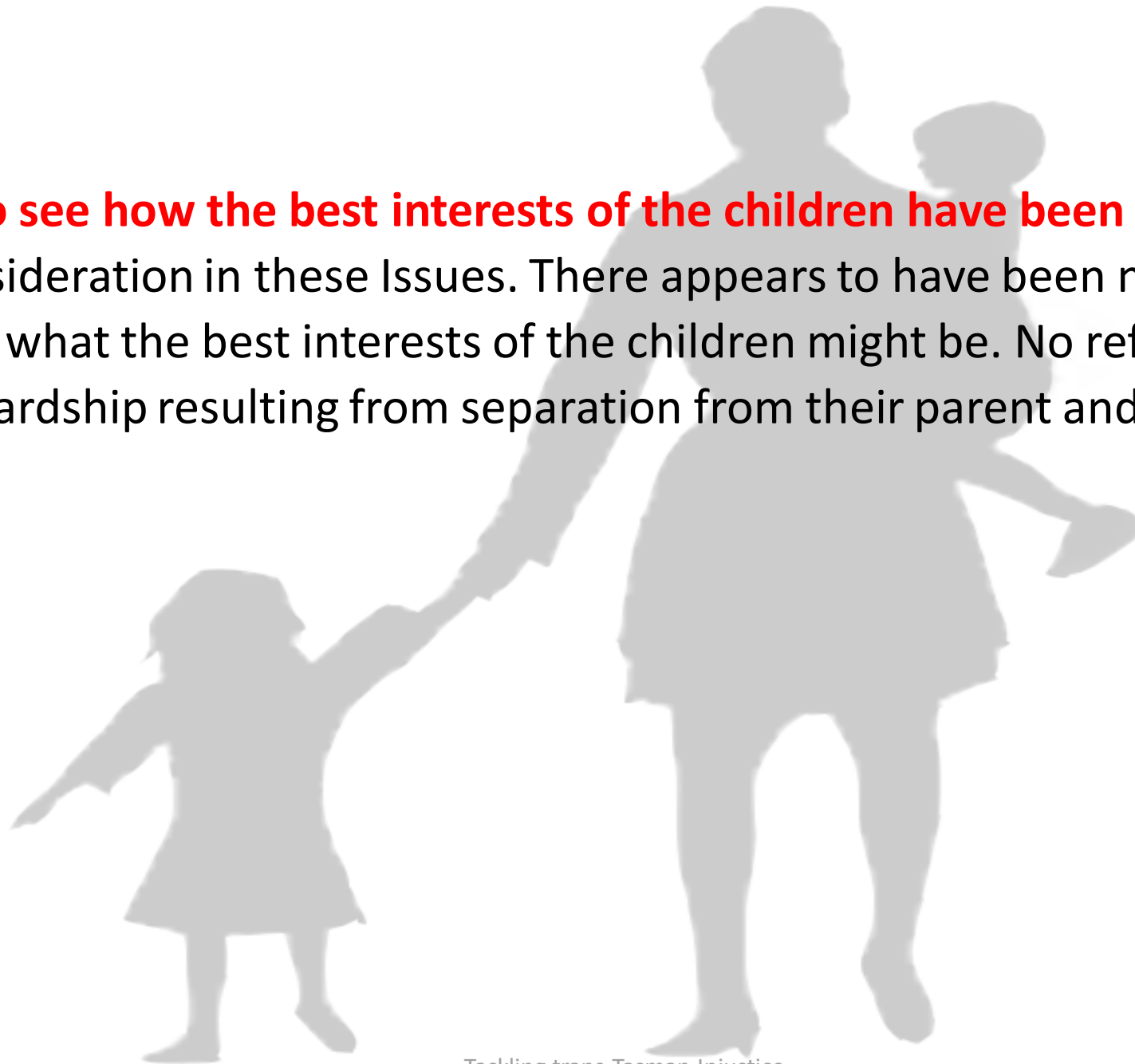
The Commonwealth Ombudsman has suggested that the use of section 501 to cancel the visas of long-term permanent residents **goes beyond the original intention of the provision**. Nevertheless, in recent years section 501 has continued to be used to cancel the visas of long-term permanent residents.



The impact on the best interests of a child Visa cancellation under section 501 may result in the separation between a parent and child. Such separation **may breach Australia's** obligations under the CRC.

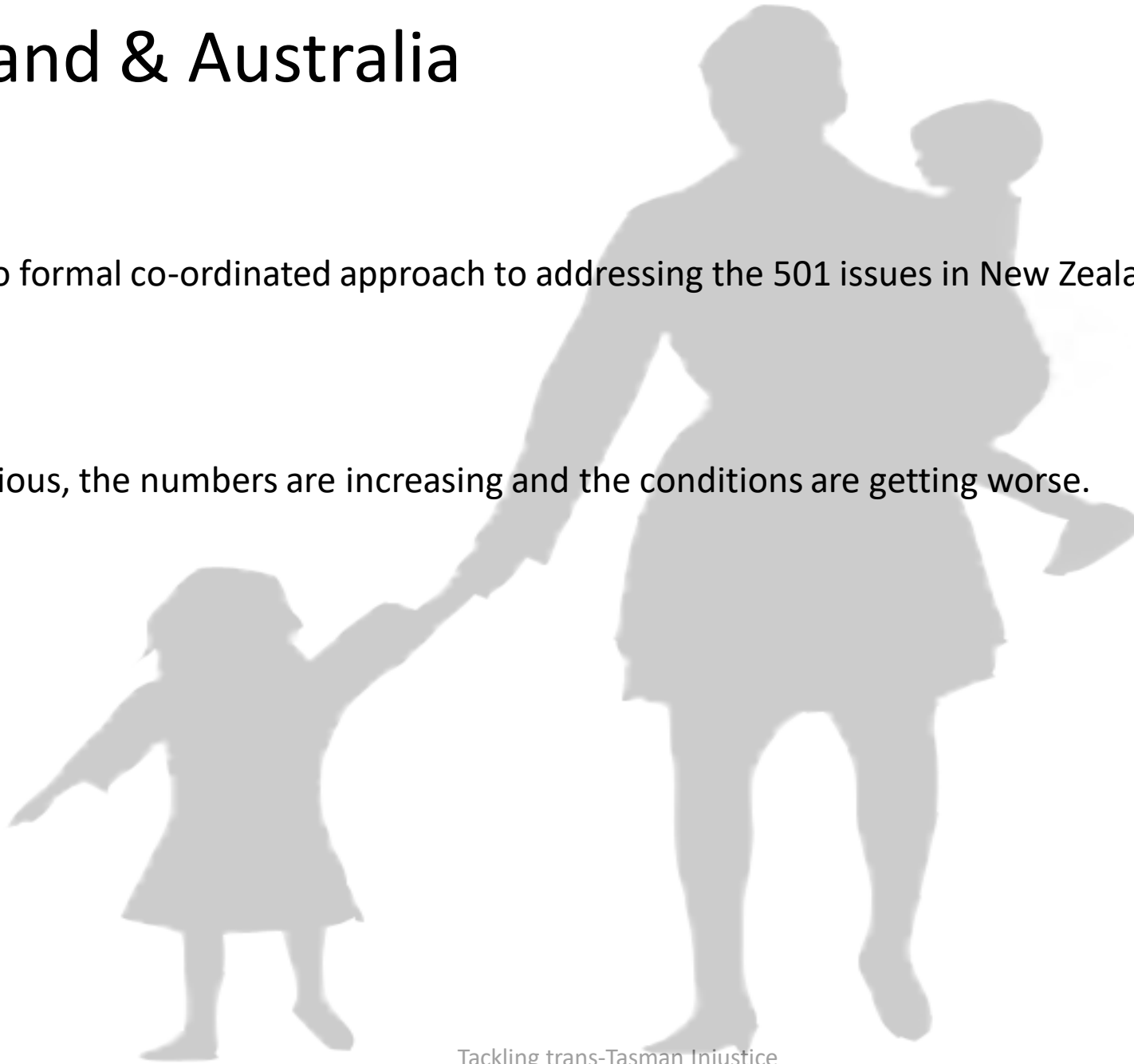
As stated in article 9(1) of the CRC: States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when **competent** authorities subject to judicial review determine, in accordance with applicable law and procedures, **that such separation is necessary for the best interests of the child.**

It is difficult to see how the best interests of the children have been treated as a primary consideration in these Issues. There appears to have been no assessment of what the best interests of the children might be. No reference is made to the hardship resulting from separation from their parent and grandparents.



New Zealand & Australia

- There has been no formal co-ordinated approach to addressing the 501 issues in New Zealand and in Australia.
- The issues are serious, the numbers are increasing and the conditions are getting worse.



Can NACLC and CLCA Work Together to Tackle this trans-Tasman Injustice?

- It involves access to justice in both Australia & New Zealand;
- Change will only happen if our Governments face pressure to fix it;
- The “501s” issue breaches human rights.

WE MUST ACT

Can We Change The Government's Mind?

- #KidsOffNauru launched by World Vision Australia in August 2018;
- The last children removed from Nauru in February 2019;
- “With the support of multiple humanitarian **organisations across Australia and New Zealand**, as well as the tireless work of **human rights lawyers**, the #KidsOffNauru campaign highlighted the suffering the children faced....”



Tackling trans-Tasman Injustice

What Worked?

- Telling victim's stories;
- International pressure;
- Media attention
- Drs calling for change;
- Large petition;
- Getting MP support;
- **What else?**

What Would The NZ side of This Campaign Look Like?

- NZ Parliamentary Select Committee Inquiry into what is happening to Deportees?
- Request for NZ Embassy to visit and report on NZ Citizens being detained?
- Asking other humanitarian organisations to work with their Australian counterparts
- Social and mainstream media awareness-raising campaign
- Human Rights lawyers taking cases to international bodies?
- PNG recently refused go take deportees from Australia

What Would The Australian Side of This Campaign Look Like?

- **OVER TO YOU:**

Spend 20 minutes discussing

- Legal Strategy
- Political Strategy

Report back your top ideas

