

Refugees, asylum seekers and migrants

Over the past three years, Australia’s migration and asylum policies have been shaped by heightened political focus on border control and judicial scrutiny of executive power. Current migration and asylum policies continue to permit prolonged detention and offshore arrangements that raise human rights concerns. There have been some positive developments, including the abolition of a flawed fast-track asylum process.

The Australian government also continues to grant a significant number of humanitarian protection visas. In 2025 Australia welcomed its one millionth refugee and humanitarian entrant since 1947, demonstrating a strong commitment to humanitarian assistance.

Immigration

Racism and migration

Urgent human rights issues

Anti-immigrant sentiment is rising. Migrants are being scapegoated for cost-of-living issues. The March for Australia rallies targeted migrants and singled out Indian migration. Some political leaders have called for discriminatory migration policies and targeted Muslim migration.

Immigration Detention

Australia’s immigration detention policies raise serious human rights concerns. Detention should only be used as a last resort, be strictly limited and time bound. Children should never be detained.

Under Australian legislation, there is no time limit on immigration detention.

There are many serious human rights risks associated with immigration detention policies and practices in Australia, including:

- loss of liberty
- arbitrary, prolonged or indefinite detention
- inadequate living conditions and facilities
- mental and physical health deterioration
- lack of access to meaningful activities, services and support
- family separation and harmful impacts on children.

In 2023, the High Court of Australia ruled in [*NZYQ v Minister for Immigration, Citizenship and Multicultural Affairs*](#) that indefinite detention without a real prospect of removal is unlawful under the Australian Constitution.

Since the decision, a significant number of people have been released from immigration detention. However, the Australian Government enacted new laws in response that raise serious concerns about compliance with its international human rights obligations. These laws expanded removal powers, including third country reception arrangements that permit Australia to fund resettlement in other countries (including refugees whose protection status has been reversed). The laws criminalise non-cooperation with removal with up to 5 years in prison. The Government has sought to remove people to Nauru under a new resettlement arrangement and has re-detained them pending removal.

Priority Action

The Australian Government should ensure immigration detention is strictly limited, time-bound and prohibited for children.

The Legacy Caseload and Pathways to Protection

There has been substantial progress towards status resolution for people who arrived in Australia by boat before 2014 (the Legacy Caseload), including permanent visas for many long term residents.

A significant residual group remains affected by unfair fast-track processing of their immigration and asylum claims, temporary migration arrangements and prolonged uncertainty. This has ongoing and lasting impacts on financial insecurity, family unity, and mental health. This group continues to require targeted measures to achieve fair and durable outcomes consistent with Australia's international human rights obligations.

Priority Action

The Australian Government should provide pathways for the assessment of protection claims for all asylum seekers and refugees, including those previously rejected under the fast-track process.

Temporary Protection

While the Australian Government announced in 2023 that it would provide a permanent visa pathway for many people in the Legacy Caseload, it did not abolish Temporary Protection Visas (TPVs) as a legal category.

Asylum seekers who arrive in Australia by boat without a visa, or by plane and have their visa cancelled before clearing immigration, are only eligible to apply for [temporary protection](#). Further, a statutory bar prevents people who arrive by boat from lodging such an application unless the Minister for Home Affairs personally lifts the bar.

Making protection temporary and dependent on the discretion of a Minister is an insufficient safeguard to ensure people who have sought asylum are not returned to countries where they may face persecution or other serious harm.

This undermines Australia's obligations under international human rights and refugee law, creating significant barriers to accessing fair and efficient refugee status determination and pathways to permanent protection.

People on temporary visas [do not have access](#) to the same services as permanent visa holders. They are not eligible for family reunion or a range of settlement services and face barriers to accessing higher education.

The uncertainty and insecurity caused by temporary protection contributes to serious and ongoing mental health issues among refugees and asylum seekers, compounding the challenges they face in rebuilding their lives.

The Commission is concerned that certain asylum seekers and migrants do not have sufficient support to maintain a [basic standard of living](#).

Priority Action

The Australian Government should legislate to abolish temporary protection visas and ensure pathways to permanent protection and family reunification.

Asylum Seekers

Racism and migration

Recent human rights advances

Australia recently welcomed the one millionth refugee and humanitarian entrant since 1947, demonstrating a strong commitment to humanitarian assistance. Australia provides good support to people who receive humanitarian visas.

Australia has welcomed one million people fleeing persecution and violence since World War 2. However, Australia’s approach to asylum seekers and refugees who arrive by boat remains one of the harshest in the world. Australia has a long-standing policy of mandatory detention for all people arriving or remaining in Australia without a valid visa, regardless of risk. This includes children, refugees and asylum seekers.

Racism and migration

Urgent human rights issues

Australia’s policies towards people who arrive by boat seeking safety are amongst the harshest in the world. These policies include boat turnbacks, mandatory detention (including of children) and offshore processing. Recent changes allowing the deportation of people to Nauru create further human rights risks. There is limited transparency on arrangements between the Australian and Nauruan Government, or of conditions of treatment in Nauru.

Boat Turnbacks and Takebacks

Since December 2013, Australia’s *Operation Sovereign Borders* (OSB) migration policy has involved intercepting boats carrying people seeking asylum, with boats turned back or taken back to their point of departure, and offshore processing for those not returned.

Successive governments have maintained that these measures are necessary to prevent deaths at sea and disrupt people-smuggling networks. However, lack of

transparency makes it difficult to assess whether turnbacks are conducted in accordance with Australia's international obligations, including the prohibition of *refoulement* and the duty to guarantee safety of life at sea. Onboard screenings lack proper safeguards, oversight and access to legal advice. These practices have been widely criticised by [UN bodies](#), [UN experts](#) and [civil society](#), and pose a significant risk of *refoulement*.

Australia is [obliged](#) under human rights law to uphold the rights of all asylum seekers and refugees, regardless of their mode or place of arrival, or whether they hold a valid visa.

Priority Action

The Australian Government should ensure refugee status determination and assessment of *refoulement* risk, including during interceptions at sea, meets Australia's international obligations.

Offshore Processing

Since 2012, asylum seekers arriving by boat without a valid visa have been transferred to Nauru or Manus Island in Papua New Guinea (PNG) for 'offshore' or 'third country' processing. Since July 2013, it has been the [policy](#) of successive Australian Governments that none of these people would settle in Australia, even if found to be refugees.

Australia no longer sends asylum seekers intercepted at sea to PNG however a number of [refugees and asylum seekers](#) transferred by Australia to PNG still remain there, along with their families. They currently live in Port Moresby in the community, having spent over a decade in PNG following their detention on Manus Island. Australia continues to send people to an Australian-funded centre on Nauru.

The Commission remains seriously concerned about the conditions and treatment of asylum seekers and refugees in Nauru and PNG. The [Commission](#) and other bodies have consistently documented serious human rights violations against people removed to Nauru and PNG, including prolonged and arbitrary detention, inadequate living conditions, physical and sexual assault, limited access to health care and poor health outcomes. Reports indicate that preventable deaths have occurred as a result of Australia's offshore processing arrangements, including cases of [suicide](#), [homicide](#), [delayed or denied access to medical treatment](#), and [failures to evacuate](#) individuals in time for life-saving care.

The Commission has long maintained that transferring asylum seekers offshore does not release Australia from its international obligations. Australia's current offshore processing regime is inconsistent with international law and avoids Australia's [asylum responsibilities](#).

In October 2024, the UN [Human Rights Committee](#) ruled that Australia was responsible for the arbitrary detention of asylum seekers transferred to offshore detention facilities in Nauru in 2013 and 2014, in breach of the International Covenant on Civil and Political Rights.

In 2025, the Australian Government entered into new 'third country reception arrangements' with Nauru, enabling deportation of people released after the *NZYQ* High Court decision. It also passed laws that strip [procedural fairness](#) for individuals facing removal to a third country.

Priority Action

The Australian Government should ensure fair processes for all asylum seekers subject to offshore processing, and provide safe, long-term solutions for those who are determined to be refugees.