

SUBMISSION ON OFFSHORE PROCESSING AND RESETTLEMENT ARRANGEMENTS

LEGAL AND CONSTITUTIONAL AFFAIRS REFERENCES COMMITTEE



Executive Summary

The Asylum Seekers Centre (ASC) believes that any measured assessment of Australia's offshore processing and resettlement programs with the Republic of Nauru, Papua New Guinea, and other countries, since 2022 should consider how so-called offshore processing has operated since its inception and the enduring harm experienced by those subjected to it.

This submission focuses on the impact of offshore detention on the health and wellbeing of people seeking asylum, and the ongoing human rights implications of these arrangements.

Our response covers the following areas:

- Australia's offshore processing and third-country resettlement arrangements are in clear breach of the country's international human rights obligations, as witnessed and experienced by the ASC clients who gave accounts of their experiences in mandatory offshore detention to inform our response to this inquiry.
- Clients of the ASC experienced harsh living conditions, inadequate food, violence, the denial of medical care, and the denial of legal assistance while held in offshore detention centres. Their testimonies corroborate allegations of widespread human rights abuses in offshore detention and demonstrate the lasting impact on the physical and mental health of people seeking asylum.
- The re-traumatisation of people who have fled war and persecution through offshore detention and faced prolonged legal limbo has been described by UN treaty bodies as a form of torture.¹ This constitutes an intolerable human rights violation that must end. People who have been detained for years in Papua New Guinea and Nauru and are still held there should be released and allowed to settle permanently in Australia.

¹ Australia: Offshore and prolonged detention exposed Iranian asylum seeker to torture, UN committee finds, Office of the High Commissioner for Human Rights, 14 January 2026, <https://www.ohchr.org/en/press-releases/2026/01/australia-offshore-and-prolonged-detention-exposed-iranian-asylum-seeker>

- The recently signed deal to forcibly deport refugees and people seeking asylum to Nauru - at a cost of \$2.5 billion to Australian taxpayers - has been marred in allegations of corruption. Given its implications for domestic law and human rights, this arrangement should be suspended immediately to allow for a full and independent investigation into the allegations of corruption surrounding it.

This submission also considers the ongoing plight of the so-called “transitory cohort”, who have lived in legal limbo in Australia for more than 13 years. This small group has endured years of trauma as a result of their uncertain legal status, as testified by the current ASC clients we spoke with to inform this submission.

Many people from this cohort have been formally recognised as refugees, now have Australian partners and children, and contribute actively to Australian society. There is no justification for maintaining their legal jeopardy. After the treatment they have endured, they should be granted protection and the opportunity to settle in Australia permanently.

Introduction

In the nearly 13 years following then Australian Prime Minister Kevin Rudd’s announcement that no person seeking asylum arriving by boat would ever be allowed to settle permanently in Australia and the commencement of formal agreements with the Government of Papua New Guinea to forcibly detain and ‘process’ people seeking asylum there,² Australia’s system of so-called offshore processing has resulted in widespread human rights abuses, at least 14 deaths,³ and the incarceration and re-traumatisation of thousands of people fleeing war, danger, and persecution in search of safety.

In 2024, the Albanese Government sought to expand the use of “third-party countries” for the purposes of deporting and resettling refugees and people seeking asylum. Three Migration Amendment Bills, widely referred to by Australia’s human rights sector as the “Brutal Bills”, created new powers allowing the Government to enter into agreements with third-party countries for the purposes of forcibly deporting people seeking asylum.

Shortly thereafter, the Government signed a third-party country agreement with the Republic of Nauru. The details of this agreement have been shrouded in secrecy.

² Timeline: Offshore detention, Human Rights Law Centre, <https://www.hrlc.org.au/explainers/timeline-offshore-detention/>

³ Ending arbitrary and indefinite offshore detention, Refugee Council of Australia, 15 April 2025, <https://www.refugeecouncil.org.au/ending-arbitrary-and-indefinite-offshore-detention/#:~:text=The%20harm%20of%20offshore%20detention,of%20offshore%20detention%20cannot%20continue.>

Since its announcement, serious allegations have emerged concerning corruption within the Nauruan Government, security arrangements on the island involving outlawed Australian gangs, and the nature of the so-called reception arrangement itself.⁴

A translated transcript of an interview with the President of Nauru, subsequently read out in the Australian Parliament, revealed false claims that people being transferred to Nauru are “not refugees” and suggestions that Nauru may “find a way to return them home”.⁵ These statements have intensified concerns regarding refoulement and chain refoulement.

Against this backdrop, this inquiry presents a critical opportunity to examine the transparency, legality, human rights impacts, and integrity of Australia’s offshore processing and third-country resettlement arrangements. However, any assessment of these arrangements since 2022 requires examination of how offshore processing has operated since its inception and the enduring harm experienced by those subjected to it. Without this historical and experiential context, the inquiry cannot accurately assess outcomes, human rights impacts, or what it means for Australian taxpayers.

The Asylum Seekers Centre has supported thousands of people who have survived Australia’s cruel offshore detention regime. For this submission, we consulted two current clients, Anna* and Sam*, about their experiences and recounted the experiences of a third former ASC client, Rahim*. Their experiences both in offshore detention and, in the cases of Anna and Sam, through their ongoing and prolonged legal uncertainty, have had a seriously detrimental impact on their mental and physical health. These lived experiences are integral to a full and proper assessment of how so-called offshore processing continues to operate today.

The re-traumatisation of people who have fled war, danger, and persecution through incarceration in offshore detention centres, followed by prolonged legal limbo, has been described by international human rights bodies as a form of torture.⁶ This constitutes an intolerable violation of human rights and must come to an end. People who have been detained for years in Papua New Guinea and Nauru and are still held there should be released and permitted to settle permanently in Australia.

Separately, the plight of the “transitory cohort” - people who have lived in legal limbo in Australia for more than 13 years - must be resolved without further delay.

⁴ Refugee Council calls for immediate suspension of Nauruan arrangement amid serious corruption allegations, Refugee Council of Australia, 26 November 2025, <https://www.refugeecouncil.org.au/refugee-council-calls-immediate-suspension-nauruan-arrangement-serious-corruption-allegations/>

⁵ Ibid.

⁶ Australia has turned Nauru into an open-air prison, Amnesty International, 17 October 2016, <https://www.amnesty.org/en/latest/press-release/2016/10/australia-has-turned-nauru-into-an-open-air-prison/>

This small group has endured prolonged trauma arising from years of uncertainty, despite many being formally recognised as refugees, and having established families, employment, and community ties in Australia. There is no justification for maintaining this state of legal jeopardy any longer, and after the treatment they have endured, they should be granted protection and a permanent pathway to settlement in Australia.

Impact on Human Rights

Australia's international obligations

Australia is party to the 1951 Refugee Convention, the International Covenant on Civil and Political Rights (ICCPR), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Convention on the Rights of the Child.⁷ These treaties prohibit arbitrary detention, refoulement, torture, and the detention of children, and together form a binding legal framework governing Australia's treatment of refugees and people seeking asylum.

The policy of so-called offshore processing has operated as an attempt to externalise these obligations. The concern of many groups across Australia's human rights sector has been that this attempt to externalise processing has been deliberate, not only in an attempt to absolve successive governments of their responsibilities under the Refugee Convention 1951, but also to take people seeking asylum to other legal jurisdictions where they do not benefit from the protections otherwise afforded to them by Australian domestic law.

Since offshore processing began, successive Australian governments have attempted to distance themselves from responsibility for the welfare of people they have sent to either Nauru or Papua New Guinea.

In 2014, when asked about the welfare of those people seeking asylum who were forcibly sent to the Manus Island detention centre, then Minister for Immigration and Border Protection Scott Morrison said, "as the individuals and the centre are located in PNG territory, it has primary responsibility."⁸ As recently as January 2026, a spokesperson for Home Affairs Minister Tony Burke stated that it remains "Australia's consistent position that persons in regional processing countries do not engage our international obligations".⁹

⁷ Human Rights Explained: Australia and Human Rights Treaties, Australian Human Rights Commission, 14 December 2012, <https://humanrights.gov.au/resource-hub/by-resource-type/education-1453/human-rights-explained/human-rights-explained-australia-and-human-rights-treaties>

⁸ Is Australia responsible for asylum seekers detained on Manus Island?, ABC News, 27 February 2024, <https://www.abc.net.au/news/2014-02-27/who-is-responsible-for-asylum-seekers-detained-on-manus/5275598>

⁹ Walden, M. Iranian asylum seeker exposed to torture by Australia, UN finds, ABC News, 16 January 2026, <https://www.abc.net.au/news/2026-01-16/iranian-asylum-seeker-exposed-to-torture-australian-detention-un/106234112>

However, international human rights bodies have consistently found that Australia retains responsibility due to its funding, control, and policy decisions underpinning offshore detention. In 2025, the UN Human Rights Committee concluded that Australia's longstanding detention of people seeking asylum in Nauru breached their rights and that the use of so-called offshore processing does not absolve states of their human rights obligations.¹⁰ Responsibility for the welfare of people Australia transfers offshore therefore lies with the Australian Government and any human rights abuses suffered in offshore detention occur under Australia's international legal obligations.

Risk of refoulement

Article 33 of the Refugee Convention (1951), to which Australia is party, prohibits the expulsion or return of "a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion".¹¹

The externalisation of so-called "processing" of asylum applications places people who have fled war and persecution at the mercy of third countries to which they are forcibly transferred. Whilst both Nauru and Papua New Guinea are parties to the Refugee Convention, this alone does not guarantee rights-respecting treatment of people seeking asylum. For example, China is also party to the Refugee Convention, yet only accepted a very small number of refugees each year, largely limited to those who come through the UNHCR's resettlement processes.¹²

As noted in this submission, increased scrutiny of Australia's arrangements with Nauru followed the public release of a translated transcript of an interview with the President of Nauru, which was later read into the Parliamentary record. In that interview, the President falsely asserted that people being transferred to Nauru are "not refugees" and suggested that the Government of Nauru may "find a way to return them home".¹³

These statements substantiate concerns that Australia may be complicit in what is known as "chain refoulement", whereby people transferred to Nauru for so-called processing or re-settlement could face onward removal to their country of origin, exposing them to renewed risk of persecution or harm.

¹⁰ UN ruling on Australia's responsibility for people transferred to Nauru, UNHCR Press Release, 16 January 2025, <https://www.unhcr.org/asia/news/press-releases/un-ruling-australia-s-responsibility-people-transferred-nauru#:~:text=The%20tiny%20Pacific%20Island%20nation,by%20Australia%20for%20offshore%20processing,&text=The%20UN%20Human%20Rights%20Committee,with%20UNHCR%27s%20long%2Dheld%20position>

¹¹ Article 33 - Prohibition of expulsion or return ("refoulement"), Convention relating to the Status of Refugees, 28 July 1951, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-relating-status-refugees>

¹² Rights Mapping and Analysis Platform, UNHCR, <https://rimap.unhcr.org/countries/china>

¹³ Refugee Council calls for immediate suspension of Nauruan arrangement amid serious corruption allegations, Refugee Council of Australia, 26 November 2025, <https://www.refugeecouncil.org.au/refugee-council-calls-immediate-suspension-nauruan-arrangement-serious-corruption-allegations/>

Poor living conditions

Asylum Seekers Centre clients who have experienced offshore detention consistently describe conditions as “prison-like’. Accounts include physical assault, inedible food and lack of food, restricted contact with the outside world, lack of access to legal assistance, lack of adequate medical care, unsafe and overcrowded living arrangements, and culturally insensitive practices.

CASE STUDY - ANNA*, DETAINED ON NAURU

Anna arrived in Australia by sea and was transferred to offshore detention in Nauru. She remained there for six years, living in overcrowded vinyl tents with little privacy, extreme heat, food shortages, and limited access to basic facilities. There was no consideration for gender, cultural, or mental health needs. Families and single people were housed together regardless of vulnerability, and conflicts and violence were common.

Anna witnessed extreme distress, self harm, and suicide, which continue to affect her mental health deeply.

“Some people cut. Everywhere cut. You know, stomach cut, hand cut. Always you see blood.”

Anna was eventually transferred to detention in Sydney and now lives in the community. However, as a member of the “transitory cohort”, she remains without a pathway to permanent settlement.

CASE STUDY - SAM*, DETAINED ON CHRISTMAS ISLAND

Sam arrived in Australia by sea and was transferred to offshore detention on Christmas Island. He was held in a high-security compound of demountable buildings surrounded by fences and guards. Accommodation was in shared containers, two people per room. Sam spent over two years in detention without clear information about his future.

“You don’t have access to anyone, it’s like a prison. It was in a container ... each room had two people. Twice a day we could go outside.”

Sam also reported inadequate access to medical care, raising further serious human rights concerns.

In recent months, Nauru has experienced food shortages and outbreaks of dengue fever, compounding concerns about the suitability of the island for offshore detention and so-called processing.

Re-traumatisation of people who have fled war and persecution

At its heart, mandatory offshore detention criminalises people who have fled war, danger, and persecution. To treat such individuals as criminals and subject them to prison-like conditions re-traumatises them at a time when protection, safety, and support are most needed.

International human rights organisations have characterised this treatment as akin to torture, noting its severe impact on mental health.¹⁴ A recent finding by the UN Committee Against Torture determined that Australia had failed to protect an Iranian person seeking asylum from torture and ill-treatment during his years-long detention both offshore in Papua New Guinea and in Australia.¹⁵ The committee also established that in doing so, Australia had violated its international obligations under the Convention against Torture.¹⁶

Consistent with findings of the UN Human Rights Committee regarding Nauru, the UN Committee Against Torture concluded that Australia bore legal responsibility for people held in offshore detention on Manus Island because of “Australia’s funding, management and contracting of services at Manus Regional Processing Centre, together with its policy decision to transfer asylum seekers there”.¹⁷

In that case, the complainant had been subject to serious violence whilst detained in Manus Island Detention Centre, including an occasion where a guard had attempted to slit his throat. The Committee found that “Australia failed to take effective measures to prevent torture and ill-treatment during the complainant’s detention in Papua New Guinea. It noted the absence of any demonstrated effort to protect him from violence, to ensure that the attempted killing was investigated and those responsible held accountable, or to provide adequate rehabilitation and medical care.”¹⁸

The Committee found that “the combination of harsh conditions, protracted detention and lack of protection amounted to torture and cruel, inhuman or degrading treatment, in violation of articles 2(1) and 16 of the Convention”,¹⁹ while the claimant’s lengthy period of arbitrary detention in Australia amounted to “cruel, inhuman or degrading treatment”.²⁰

¹⁴ Australia has turned Nauru into an open-air prison, Amnesty International, 17 October 2016, <https://www.amnesty.org/en/latest/press-release/2016/10/australia-has-turned-nauru-into-an-open-air-prison/>

¹⁵ Australia: Offshore and prolonged detention exposed Iranian asylum seeker to torture, UN committee finds, Office of the High Commissioner for Human Rights, 14 January 2026, <https://www.ohchr.org/en/press-releases/2026/01/australia-offshore-and-prolonged-detention-exposed-iranian-asylum-seeker>

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Ibid.

²⁰ Ibid.

CASE STUDY - SAM*, DETAINED ON CHRISTMAS ISLAND

During his detention, Sam witnessed hunger strikes, protests, self harm, and suicide attempts. He reported seeing people hang themselves, burn themselves, and cut their wrists.

In one incident, Sam was assaulted while asleep and awoke to a gun pointed at his head after being falsely accused of involvement in a protest. Although later cleared through investigation and CCTV footage, the incident left him deeply traumatised.

He was also denied medical treatment for a leg injury that required surgery. For approximately 15 months, he was held in solitary-like conditions, allowed out of his cell only once or twice a day.

"Imagine you are asleep in the night, someone wake you up with a gun on your head. What would you feeling. I'm still shaking when I remember that."

"I just see the nightmares every day. That's what they did to my mental [health]."

CASE STUDY - RAHIM*, DETAINED ON NAURU

Rahim was detained on Nauru for six years before being resettled in New Zealand. Despite this, the trauma of offshore detention continues to dominate his daily life.

"It is hard to explain those six and a half years and all of the torture, troubles, issues, and pain."

"For me, I'm still basically in Nauru because of all the trauma, problems, and issues that persist."

"Sometimes because of many years of being traumatised, it's hard for me to read and concentrate."

It is unconscionable that people fleeing persecution are subjected to violence and prolonged arbitrary detention - practices recognised by UN bodies as forms of torture.

Impact on domestic law: The Anti-Fairness Bill and allegations of corruption

In 2025, the Government passed the Home Affairs Legislation Amendment (2025 Measures No. 1) Act, commonly referred to as the “Anti-Fairness Bill”. This legislation builds on laws passed in 2024 enabling the deportation and resettlement of non-citizens to Nauru - measures widely condemned as a threat to the human rights of refugees and people seeking asylum.

Taken together, these measures mark a new phase in Australia’s reliance on third-party countries to forcibly manage its humanitarian intake, with Nauru now used as a permanent dumping ground for refugees and people seeking asylum that the Australian Government does not wish to resettle on its own territory.

Taken on its own merits, the Anti-Fairness Bill has profound implications for the future of lawmaking and legal process in Australia. The legislation removes any requirements of natural justice that might otherwise apply when the Government is entering into or carrying out a third country reception arrangement, including the new deal with Nauru.²¹

Natural justice is the foundational principle that people are entitled to fair notice of decisions affecting them and a meaningful opportunity to respond. Its removal means the Government is no longer required to consult affected individuals or consider their specific circumstances when exercising powers that have direct and serious consequences for them.

In practical terms, these powers allow a Home Affairs officer to issue a formal removal direction without notifying the individual in advance or giving them an opportunity to comment on whether it is fair, safe, or practically possible to comply with such a direction. For example, a mother could be issued with a removal direction requiring her to apply for a passport for her child, without the officer enquiring beforehand whether it was safe or even possible to contact the child’s father to obtain the consent required for the passport application.

The removal of natural justice in this context risks normalising the erosion of procedural safeguards and emboldening future governments to strip away legal protections in other areas, further weakening Australia’s already fragile domestic rights framework.

We believe the removal of legal rights from certain cohorts of people will have impacts beyond refugees and people seeking asylum, standing to marginalise multicultural communities and polarise public debate. This legislation risks entrenching the perception that certain groups are permanently conditional in their belonging, subject to different rules, and denied the same access to justice.

²¹ Explainer: The Anti-Fairness Bill: entrenching deportation powers, Human Rights Law Centre, <https://www.hrlc.org.au/explainers/explainer-the-anti-fairness-bill/>

Such a move erodes trust in institutions not only among affected individuals, but across multicultural communities who see these laws as part of a pattern of exclusion.

This erosion of trust undermines the social cohesion the Asylum Seekers Centre works to foster every day. It also fuels polarisation, creating space for more hostile and extreme rhetoric around migration and national identity to take root. Rather than uniting Australians around a fair, transparent, and humane system, this approach entrenches division, fear, and exclusion.

Human rights implications and allegations of corruption

The human rights implications of the latest chapter in Australia's use of third-countries for the repatriation of refugees and people seeking asylum are manifest. It remains unclear whether people deported to Nauru under the Government's new powers will be re-detained or allowed to live freely in the community. This revives serious concerns about arbitrary detention, torture, and the re-traumatisation of those who have fled violence and persecution.

Following the passage of the legislation, serious allegations of corruption emerged in relation to Australia's so-called offshore processing arrangements. Investigations by *60 Minutes* and *The Sydney Morning Herald* revealed that members of the outlawed Finks motorcycle gang had been contracted to provide security on Nauru in connection with the recently signed \$2.5 billion dollar deportation deal.²² Further documents tabled in the Senate by Greens parliamentarian David Shoebridge raised allegations of corruption and the diversion of Australian taxpayers' funds by Nauru's President, David Adeang.²³

At a total cost of \$2.5 billion, the deal represents an extraordinary use of Australian taxpayers' money. In this context, it is intolerable that the details of the deal are shrouded in secrecy and increasingly marred by allegations of corruption.

Since offshore processing was introduced in 2012, successive Australian governments have spent \$13.35 billion on the policy.²⁴ The Albanese Government has allocated \$581 million for offshore processing in the 2025-26 Budget.²⁵

²² McKenzie, N. & Chrysanthos, N. 'Corrupt' Nauru deals, bikie company links under scrutiny in Senate inquiry, *Sydney Morning Herald*, 27 November, 2025, <https://www.smh.com.au/national/corrupt-nauru-deals-bikie-company-links-under-scrutiny-in-senate-inquiry-20251127-p5nj3v.html>

²³ Basford Canales, S. & Doherty, B. Nauru president accused in parliament of corruptly siphoning off millions of Australian funding, *Guardian*, 26 November 2025, <https://www.theguardian.com/australia-news/2025/nov/26/nauru-president-accused-in-parliament-of-corruption-siphoning-off-millions-of-australian-funding>

²⁴ Analysing the 2025-26 Federal Budget: What it means for refugees and people seeking protection, Refugee Council of Australia, 27 March 2025, <https://www.refugeecouncil.org.au/analysis-2025-26-budget/>

²⁵ Table 2.2.1: Budgeted expenses for Outcome 2, Department of Home Affairs, Entity resources and planned performance, Federal Budget 2025-26, p.38 <https://www.homeaffairs.gov.au/reports-andpubs/Budgets/2025-26-home-affairs-pbs-department-of-home-affairs.pdf>

By contrast, the Status Resolution Support Services (SRSS) program, which provides critical support to vulnerable people seeking asylum in the community, has been reduced to a meagre \$20 million annually after years of cuts and restricted eligibility criteria.²⁶

International human rights impact

Australia's history of mandatory offshore detention is recognised internationally as a stain on its human rights record. As outlined elsewhere in this submission, UN treaty bodies and international human rights organisations have repeatedly criticised Australia's treatment of people seeking asylum.

In January 2026, the UN released the findings of Australia's fourth Universal Periodic Review of Human Rights. Of the 120 countries who responded, 23 raised concerns or made recommendations relating to Australia's offshore processing and immigration detention policies.²⁷ Several states - including Brazil, China, Finland, Germany, Serbia, Switzerland, and Türkiye - called for an end to offshore detention, while Sweden and Uruguay advised greater adherence to the principle of non-refoulement.²⁸

In recent years, mandatory offshore detention has also become an unfortunate Australian export. Abandoned attempts by the UK Government to deport people seeking asylum to Rwanda,²⁹ and Italy's establishment of a third-party "processing" centre³⁰ - subject to legal challenge - reflect the growing global influence of Australia's model.

An even darker imitation of these policies has emerged in the US, where agreements have been struck with countries with highly contentious human rights records for the forced deportation of migrants with no connection to those states.³¹ This development follows Australia's most recent agreement with Nauru to deport and permanently resettle members of the so-called NZYQ cohort there.

Australia has thus set dangerous international precedents that have helped legitimise the mistreatment of people seeking asylum around the world.

²⁶ Appendix C, 2025-26 FEDERAL BUDGET: WHAT IT MEANS FOR REFUGEES AND PEOPLE SEEKING HUMANITARIAN PROTECTION, Refugee Council of Australia, 2025 22 Status Resolution Support Services (SRSS), Refugee Council of Australia, 16 February 2024, <https://www.refugeecouncil.org.au/srss/>

²⁷ UN member states question Australia's record on detention and discrimination, Refugee Council of Australia, 3 February 2026, <https://www.refugeecouncil.org.au/un-member-states-question-australias-record-on-detention-and-discrimination>

²⁸ Ibid.

²⁹ Byrne, A. The UK has dropped its offshore policy. Why can't Australia?, RACS, <https://www.racs.org.au/news/rwanda-policy>

³⁰ Rainsford, S. Italy plan to process migrants in Albania dealt blow by EU court, BBC News, 2 August 2025, <https://www.bbc.com/news/articles/cp8z3847exzo>

³¹ Vyas, H. How Trump's deportation agenda is impacting the world's poorest country, ABC News, 9 November 2025, <https://www.abc.net.au/news/2025-11-09/south-sudan-used-for-us-migrant-deportations/105869256>

Impact on health and wellbeing of people seeking asylum

As documented throughout this submission, Asylum Seekers Centre clients previously held in offshore detention centres on Nauru and Christmas Island have reported inadequate access to medical care and high levels of physical and mental illness.

The reluctance of successive Australian governments to allow people seeking asylum who have arrived by sea to enter the Australian mainland meant that medical processes were historically slow and bureaucratic. This remained the case until 2019 when the “Medevac” legislation allowed transfers to Australia for emergency medical care at the recommendation of two independent Australian doctors.³²

However, the legislation was only in place until the end of that calendar year, after which it was repealed by Parliament.³³ In recent years, human rights organisations and refugee advocates have called for reinstatement of the laws on humanitarian grounds.

CASE STUDY - SAM*, DETAINED ON CHRISTMAS ISLAND

Sam experienced this neglect firsthand after injuring his leg when he was assaulted in detention.

“I got an appointment for surgery in a Perth Hospital but they didn’t transfer me to the surgery... They just gave us some Panadol and that’s it.”

International human rights organisations have repeatedly characterised offshore mandatory detention as akin to torture.³⁴

Unsurprisingly, such conditions both trigger and exacerbate severe mental health conditions.

³² Medevac Bill explained, Asylum Seeker Resource Centre, 2019, https://asrc.org.au/medevac_faq/

³³ ‘Medevac’ law: Australia denies medical evacuations for refugees, BBC News, 4 December 2019, <https://www.bbc.com/news/world-australia-50653195>

³⁴ ‘Australia has turned Nauru into an open-air prison’, Amnesty International, 17 October 2016, <https://www.amnesty.org/en/latest/press-release/2016/10/australia-has-turned-nauru-into-an-open-air-prison/>

According to a study by the University of New South Wales, refugees and people seeking asylum detained offshore for any amount of time face up to a 20-fold greater risk of post-traumatic stress disorder (PTSD) and other mental health problems compared with those who were detained onshore for less than six months.³⁵

This finding is consistent with the lived experiences of Asylum Seekers Centre clients who spent time in offshore detention, whose wellbeing continues to be profoundly affected long after their release.

CASE STUDY - ANNA*, DETAINED ON NAURU

Anna continues to experience anxiety, depression, and trauma following years of detention and legal uncertainty. She has experienced homelessness and extreme financial hardship, surviving on minimal charity support. She has also lost family members during this period and continues to grieve. Despite counselling and limited assistance, she has few options to rebuild her life, no stable housing, and no durable solution.

"If I remember everything, I am too stressed. I cannot sleep. Everything I remember from Nauru, I remember.

"Now if I remember, I cry too much."

Consequential impacts on people seeking asylum in the Greater Sydney area

The so-called "transitory cohort"

Since Kevin Rudd's announcement in 2013 that no person arriving by boat will ever be able to settle permanently in Australia, thousands of people have been left in limbo, often despite being formally recognised as refugees.

In February 2023, then Immigration Minister Andrew Giles stated that around 19,000 people seeking asylum and refugees living in Australia would be allowed to apply for permanent visas, saying it made "no sense" to keep people who worked and paid taxes "in limbo".³⁶

³⁵ Gilbert, L. Risk of PTSD 20 times higher for people held in offshore detention: study, UNSW Newsroom, 12 November 2024, <https://www.unsw.edu.au/newsroom/news/2024/10/risk-ptsd-higher-offshore-detention>

³⁶ Jones, A. Sara's partner, brother and father are Australian citizens. But she can never be one, SBS News, 3 December 2025, <https://www.sbs.com.au/news/article/former-nauru-detainees-protest-for-permanent-residency/hf4389amj>

However, applications were only open to those who had arrived before the commencement of Operation Sovereign Borders on 18 September 2013 or those who already held temporary protection visas (TPV) or safe haven enterprise (SHEV) visas.³⁷

As a result, around 800-900 people from the so-called “transitory cohort” are still living in legal limbo in the community in Australia.³⁸ They have no current pathway to permanency and are living on temporary bridging visas, often without work rights or access to Medicare. Many people from this group now have Australian partners, children born in Australia, and contribute to Australian society, yet these factors have little bearing on their legal status.

Both Sam and Anna are part of this cohort and live with this legal uncertainty hanging over their heads.

CASE STUDY - SAM*, DETAINED ON CHRISTMAS ISLAND

After more than two years in detention, Sam was transferred to Perth and released on a temporary visa with no pathway to permanent residency.

More than 15 years later, he still has no permanent status, work rights, or access to study. Unable to return home due to fears for his safety while also unable to travel elsewhere to reconnect with his family, he lives in ongoing uncertainty. He experiences PTSD, anxiety, depression, and recurring nightmares linked to his detention. He says he lost his youth and the chance to build a stable, dignified life. Though no longer detained, he feels his life remains a punishment rather than protection.

“Even now, I feel like I am still in detention. I lost my youth, my future, and my chance to live a normal life... I still have nightmares about what I saw and what was done to me. I feel forgotten and hopeless.”

“People who came by boat risked their lives for safety, but their lives were destroyed. We are just waiting... We are alive, but we are not living in this country.”

Sam’s experience demonstrates the long-term harm of offshore detention and prolonged temporary status. Years of detention and uncertainty have caused lasting psychological harm and denied him stability, highlighting the need for trauma-informed support and a clear pathway to permanent residency.

³⁷ Jones, A. Sara's partner, brother and father are Australian citizens. But she can never be one, SBS News, 3 December 2025, <https://www.sbs.com.au/news/article/former-nauru-detainees-protest-for-permanent-residency/hf4389amj>

³⁸ Ibid.

CASE STUDY - ANNA*, DETAINED ON NAURU

After being recognised as a refugee, Anna remained in Nauru with restricted movement, minimal financial support, and exposure to racism and abuse. She was later transferred to Sydney detention for two more years, then granted a temporary bridging visa renewed every six months, with no pathway to permanent residency. Unable to return to her home country due to fears of persecution, her resettlement applications remain unresolved after many years.

"I have seen people take their own lives while I was in detention. I still feel the fear and hopelessness every day. I have no options, no way forward. I survive on small support, but I feel trapped. My faith keeps me going, but I don't know what will happen next. I just want a safe place to live and a chance to rebuild my life."

"The situation very bad for me. For me why the situation very bad. No family here, no job, no one give housing."

Anna's experience highlights the devastating impact of detention and prolonged legal limbo. Her mental health remains severely affected, and she faces ongoing uncertainty, homelessness, and financial insecurity. Stable housing, work rights, and a clear pathway to permanent residency or resettlement are critical to restoring her safety and dignity.

Australia has failed the so-called transitory cohort. Their lives continue to be shaped by the trauma that Australia has inflicted upon them and with no pathway to permanency, they continue to live in limbo. This cohort is now small in number and many are recognised refugees. After the treatment they have endured, they should now be allowed to settle in Australia permanently.

Conclusion

Australia's offshore processing and third-country resettlement arrangements are in clear breach of the country's international human rights obligations, as witnessed and experienced by the Asylum Seekers Centre clients who gave accounts of their experiences in mandatory offshore detention to inform our response to this inquiry.

Whilst we welcome the opportunity to respond to this inquiry into current so-called processing and resettlement arrangements, the implications for Australia's human rights record, the treatment of people seeking asylum, the use of public funds, and the gravity of recent corruption allegations are profound. In light of these concerns, we submit that a Royal Commission should be established to properly investigate these matters and assess whether these arrangements should continue.

The re-traumatisation of people who have fled war and persecution through offshore detention and extended periods of legal limbo has been described by UN treaty bodies as a form of torture.³⁹ This constitutes an intolerable human rights violation that must end. People who have been detained for years in Papua New Guinea and Nauru and are still held there should be released and allowed to settle permanently in Australia.

The recently signed deal to forcibly deport refugees and people seeking asylum to Nauru - at a cost of \$2.5 billion to Australian taxpayers - has been marred in allegations of corruption. Given its implications for domestic law and human rights, this arrangement should be suspended immediately to allow for a full and independent investigation into the allegations of corruption surrounding it.

Finally, the plight of the so-called “transitory cohort”, who have lived in legal limbo in Australia for more than 13 years, must be resolved. This small group has endured years of trauma as a result of their uncertain legal status. Many have been formally recognised as refugees, now have Australian partners and children, and contribute actively to Australian society. There is no justification for maintaining their legal jeopardy. After the treatment they have endured, they should be granted protection and the opportunity to settle in Australia permanently.

Recommendations

- Australia’s offshore processing regime, which human rights organisations have found to be incompatible with Australia’s international obligations, should be ended. All people currently held in Nauru or Papua New Guinea should be released and permitted to resettle in Australia.
- The \$2.5 billion deal to forcibly deport refugees and people seeking asylum to Nauru should be suspended immediately pending a full investigation into the allegations of corruption.
- Offshore detention and processing arrangements administered through private contractors lack transparency and accountability. Any processing of asylum claims should be conducted by public bodies.
- A Royal Commission should be established to examine Australia’s system of mandatory offshore detention, including documented human rights violations, and to assess the appropriateness of continuing these arrangements.
- Members of the so-called “transitory cohort,” who have been re-traumatised by offshore detention and left in prolonged legal limbo, should be granted a clear pathway to permanent residency in Australia.

³⁹ Australia: Offshore and prolonged detention exposed Iranian asylum seeker to torture, UN committee finds, Office of the High Commissioner for Human Rights, 14 January 2026, <https://www.ohchr.org/en/press-releases/2026/01/australia-offshore-and-prolonged-detention-exposed-iranian-asylum-seeker>

The Asylum Seekers Centre

Established in 1993, the Asylum Seekers Centre (ASC) was the first organisation in Australia to open its doors to specifically welcome and support people seeking asylum. We provide practical and personal support for people seeking safety in Greater Sydney, and advocate for fair and humane policies at every level.

In the last financial year, we supported approximately 4,600 people seeking asylum, including around 1,000 children, from more than 90 countries.

For more information, please contact the ASC's Advocacy Lead, Mark Johnson - mark.johnson@asylumseekerscentre.org.au

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