

PROTECTING REFUGEES IN AUSTRALIA AND GLOBALLY

UNHCR is mandated by the United Nations General Assembly to seek international protection and permanent solutions for refugees. It also has the responsibility to supervise the implementation of the 1951 Refugee Convention, to which Australia is a party. In 2018, Australia joined 180 other States around the world in committing to the Global Compact on Refugees for a more predictable and equitable responsibility-sharing framework, recognizing that a sustainable solution to refugee situations cannot be achieved without international cooperation.

UNHCR outlines the following five key priorities for law and policy reform for the Australian Government in 2022 and beyond:

1

Ensure fairness and protection for asylum-seekers arriving to Australia

Seeking asylum is a fundamental human right. Refugees and asylum-seekers worldwide need the same access to fair and efficient procedures regardless of whether they arrive by land, sea or air. Australia's current practice of intercepting vessels and screening passengers lacks procedural safeguards. The screening procedures for those claiming asylum at airports should also be strengthened and established in law.

Asylum determination systems need to quickly identify who is genuinely fleeing conflict, violence and persecution, and give them swift access to protection. To this end, asylum-seekers need to have access to free legal assistance and interpreting services and for those in need, adequate social support to enable them to live in safety and dignity during the determination process. UNHCR urges the Government to abolish the existing fast track process, which lacks key procedural safeguards and denies certain asylum-seekers the right to merits review.

Those found to be in need of international protection and recognized as refugees in Australia need to be provided permanent, rather than temporary, legal status. This will afford them the right to reunite with family, access citizenship and quickly become contributing members of society.

2

Address the detention of refugees and asylum-seekers

Australia has a proud history of refugee settlement, and refugees integrate and contribute best into their new homes when they are empowered to study, work and start their new lives. People seeking asylum should be detained only as a matter of last resort, and not beyond a clearly defined period as required for the purpose of health, identity and security checks. Any initial orders of detention for refugees and asylum-seekers should be subject to review by a court or other independent authority.

UNHCR urges the Government to reform the legal and policy framework to ensure safeguards are in place to prevent arbitrary and indefinite detention. This includes implementing a statutory statelessness determination procedure to protect the rights of stateless persons in detention. As at the end of 2021, the average period of detention for refugees in Australia had passed an unprecedented 925-days.

The mandatory visa cancellation of those who have been imprisoned for 12 months or more has led to the indefinite detention of those owed international protection who are unable to return. The 'character test' far exceeds the basis for exclusion under the 1951 Convention and thus denies refugees the status and rights to which they are entitled. UNHCR urges the Government of Australia to reinstate fundamental protections and procedural safeguards in law to ensure refugees are not deprived of their status contrary to the 1951 Convention, nor returned to danger or persecution.

3

Find solutions for all under Australia's regional processing arrangements

UNHCR acknowledges the complex challenges of mixed maritime movements faced by countries in the region. However, the cumulative impact of protracted detention, inadequate health and psychosocial support, family separation and a lack of foreseeable long-term solutions to their situation of forced displacement has led to the physical and mental health deterioration of a significant number of the more than 3,000 refugees and asylum-seekers transferred by Australia to Nauru and Papua New Guinea since 2013.

Resettlement in other countries, including New Zealand, will not address the needs of all. These refugees and asylum-seekers who have sought Australia's protection remain Australia's responsibility. UNHCR is calling on the Government to maintain appropriate support for those who remain offshore, including in Papua New Guinea, and ensure that durable solutions are found and effective for all, including through evacuations to Australia. Moreover, UNHCR is urging the Government to regularize the status of those brought back, some of whom have now been in Australia for close to a decade, including children born here. Scarce global resettlement places must be reserved for the most vulnerable in states hosting the majority of the world's refugees; Australia can and should provide a permanent pathway for those who are here.

4

Reduce the dangers for refugees and asylum-seekers seeking protection

The tragic reality is that until conditions in countries of asylum meet refugees' basic needs in safety and dignity, and adequate resettlement and other safe and legal pathways are available for the most vulnerable, the incentives for refugees to make risky, irregular journeys will continue. Saving the lives of refugees and asylum-seekers at risk means providing alternatives to embarking on dangerous voyages to seek safety.

Risks can also be substantially reduced through the expansion of resettlement and complementary pathways for admission such as community sponsorship, family reunification, labour mobility schemes, and education programmes. UNHCR encourages the Government to increase its annual humanitarian program and ensure a strong focus on vulnerability and protection needs in line with global priorities, including by lifting current restrictions on referral of certain groups.

The Government of Australia can also enhance the protection of refugees in the region and beyond by increasing and ensuring consistent humanitarian and development funding to major refugee hosting countries, including the reinforcement of effective asylum and reception systems.

5

Bring refugee families together

The reunification of families is an essential component of bringing back greater normality to the lives of refugees. Current policies significantly restrict or altogether prevent the right to family unity for certain refugees. While acknowledging that Australia has processes in place to facilitate family reunification for some, UNHCR urges the Government to expand eligibility to all refugees in Australia without discrimination and strengthen such mechanisms to achieve an effective and efficient family reunification program so that forcibly displaced families can come together as soon as possible.



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The UN Refugee Agency

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