

FREEDOM: Freedom from Detention and a real solution for resettlement

Australia's immigration detention regime is out of step with the general public and international community. The mandatory and indefinite detention of people seeking asylum in Australia without visas must be abolished immediately and offshore processing must end.

People seeking asylum and refugees must be urgently released from detention and those held offshore should be processed in Australia with both groups provided a clear resettlement plan and support for damage inflicted while being held against their will in detention centres.

Recommendations

1. End the mandatory and indefinite detention of people seeking asylum in Australia without visas, release those held and make detention a last resort with strict timeframes.
2. Abolish offshore processing with all people held on PNG or Nauru to be brought to Australia for resettlement or to have their claims for asylum processed in Australia.

Policy Background

Detention Reform

Australia is an international outlier, keeping refugees in detention with no independent oversight, minimum standards or timeframes.

The Minister for Home Affairs also has extraordinary and 'God-like' powers to cancel or refuse visas, including of refugees. With refugees unable to return to their country of origin they remain in detention indefinitely. According to the most recent statistics, 736 people in detention held a humanitarian or protection visa before being detained or are in the application process.

Furthermore, people who arrive by sea without a visa are also mandatorily detained with many released only after varying and lengthy arbitrary periods. Once a person is in detention, there is no opportunity to seek judicial review of the decision to detain them.

There is also a group of around 6 people who were held in offshore detention centres but were moved to Australia for medical reasons mostly under the now-repealed Medevac legislation, who have been in detention for 9 years. The Government has provided no reasons as to why these people are held in detention while hundreds of other people in almost identical situations are in the community.

Immigration detention facilities are inhospitable and dangerous environments. Between 2016-and 2021 the Australian Border Force recorded 42 complaints of sexual assault complaints

against facility workers; there have been 172 complaints of assault, and over 2,650 actual and threatened instances of self-harm.

Australia is also far behind comparable countries in the length of time people spend in detention. Since 2013, the average amount of days spent in detention has drastically increased from under 100 days to 689 days as of December 2021. This is compared to Canada, the United States and the United Kingdom which are 14, 55 and 29 days respectively, with Germany and France having maximum lengths of detention, neither of which exceeds 32 days.

Thanush Selvarasa, human rights activist and refugee detained in PNG, MITA and the Mantra Hotel Melbourne released 28 Jan 2021 - "How do I explain the detention life, the cage life? People seeking asylum are put in detention, within a year they will be destroyed mentally and physically. Every day our life is denied, it is not a good place, it destroys dreams and hope."

Offshore Processing

Since 19 July 2013, people who sought asylum in Australia by sea were prevented from having their protection claim assessed in Australia or ever receiving protection in Australia. Instead, they were transferred to Nauru or Papua New Guinea.

Since offshore processing restarted on 13 August 2012, the Australian Government has sent 4,183 people to Nauru or Papua New Guinea.

No new people seeking asylum have been transferred to Nauru or PNG since 2014 and the Government has not been able to provide any evidence of people trying to see asylum by sea in over a year.

There was overwhelming documentation of serious abuses, including child sexual abuse, medical negligence and high levels of self-harm in offshore detention.

By August 2019 the detention of people seeking asylum on Nauru and PNG had mostly ended and people were moved into the community with wholly inadequate support. There are currently 112 people still on Nauru and 104 in PNG unable to rebuild their lives, reunite with family or have any certainty about their future.

Why change these policies?

- Australia's current immigration regime is out of step internationally and with the general public.
- There must be a clear and legislated timeframe for how long someone can be kept in detention, no more than 30 days, and even this must be a last resort.
- Offshore processing is costly both morally and financially, processing applications onshore in the community is a clear solution.