

# Submission to the Senate Inquiry into Off-shore Processing and Resettlement Arrangements of Asylum Seekers to Australia

Prepared on behalf of Christians for Peace Newcastle 6 February 2026

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**Background:** Many members of our organisation have been involved as strong advocates for asylum seekers and over many years have assisted in their resettlement into our local community. Several of our group have been participants in the Community Refugee Resettlement Schemes (CRRS) of previous federal Departments of Immigration. We write from personal experience as well as close observation of the failures in the handling of recent arrivals over the past two decades. We are grateful to the Committee for accepting our submission, in which we will outline our concerns with Australia's offshore processing and resettlement arrangements on Nauru and in Papua New Guinea.

As Christians we welcome the Senate Committee of Inquiry as it should address many of the concerns we have about the current practices of Offshore Processing and Resettlement of Asylum Seekers. We are encouraged by the response to the announcement of the Senate Inquiry from the Australian Churches Refugee Taskforce (ACRT), an initiative of the National Council of Churches in Australia (NCCA), which has raised serious concerns about the Government's renewed offshore arrangements with the Pacific Island nation of Nauru. (Reference: NCCA Newsletter 6 February 2026). ACRT is quoted as reporting that:

"Churches across Australia remain united in affirming that hospitality and care for people seeking refugee and asylum is a core Christian responsibility grounded in our inherent human dignity. Recent statements from the Nauruan government have suggested that people transferred offshore by Australia may be returned to their countries of origin. This would constitute refoulement and breach Australia's obligations under international law. The United Nations has made clear that Australia retains full responsibility for people transferred offshore, regardless of any political arrangements.

These concerns are compounded by reports of corruption and inadequate oversight linked to the Nauru arrangement. Millions of Australian taxpayers' money is at risk of being squandered. The Australian Government is spending \$790 million on an American private prison company to warehouse just 100 refugees on Nauru.

The ACRT is calling on the Australian Government to suspend transfers to Nauru, return affected individuals to Australia for safe and fair processing, and undertake a comprehensive review of offshore processing in collaboration with the UNHCR and civil society. These steps are essential if Australia's policies are to reflect both our international responsibilities and our shared moral values."

## The Process of the Senate Committee of Inquiry

The Terms of Reference for the inquiry specifically state that it will have 'particular reference to: Australia's arrangements since 2022 with the Republic of Nauru, Papua New Guinea and other countries for offshore processing and resettlement programs'. It is noted that this Inquiry follows after the findings of the **United Nations Human Rights Council's Fourth Universal Periodic Review (UPR)** of Australia's human rights record, released in January 2026. These findings have followed the report of two landmark decisions announced on 9 January 2025, in which the **UN Human Rights Committee** ruled that Australia remained responsible for the arbitrary detention of asylum seekers redirected or transferred to offshore detention facilities in the Republic of Nauru. The findings of these reports have substantiated the many calls for a serious review or even a royal commission into offshore processing, indefinite detention and delayed decisions on the outcome of assessments postponing long-term resettlement of traumatised applicants.

## Historical Context to the Senate Inquiry

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It is not possible to fully understand the arrangements in place since 2022 without considering the context of offshore processing over more than 23 years. The past operation of offshore processing has had a significant impact on the way it operates today, as patterns and norms are developed over time and create the conditions in which the risk of corruption has developed.

There have been two distinct periods of offshore processing in Australia. The first, which ran from 2001 to 2008, was the period when Alexander Downer was the Australian Minister for Foreign Affairs. Relevantly, given Mr Downer's recent involvement in UK border policy, offshore processing at this time was very different from the policy we have seen in Australia more recently and which the UK is seeking to emulate. Most importantly, the processing of asylum claims during this first period was done by either the UN High Commissioner for Refugees (UNHCR) or Australian immigration officials, applying the UNHCR procedures and standards used around the world, and people found to be refugees were either permitted to return to and settle in Australia, or resettled in a third country. This has been rated as a most successful approach to the difficult task of assessing the claims of asylum seekers.

The second period of offshore processing began in 2012. This time around, Australia went to great lengths to maintain the fiction that offshore processing is entirely a matter for the governments of Nauru and Papua New Guinea (PNG), and that all Australian responsibility for people transferred offshore ceases the moment they leave Australian territory. Any reference to international standards of assessment soon disappeared with this regrettable devolution of a first landfall responsibility of review of claims. Specifically, Australia has tried to maintain that the processing of asylum claims is wholly a matter for those States, despite Australia having played a significant role in establishing, funding and running those systems. (Reference: Gleeson, Madeline: Kaldor Centre for International Refugee Law, 2021).

The other major difference relates to durable solutions. When offshore processing was first reintroduced in August 2012 there was no clear answer as to what would happen to people found to be refugees. In July 2013 this answer came when the Rudd Labor government established the rule that no person found to be a refugee in Nauru or PNG would ever be permitted to settle in Australia. But nor were any other suitable settlement alternatives available. This bar on settlement in Australia is the main reason why there is still offshore processing today. Asylum seekers were initially only transferred offshore for a relatively brief period from August 2012 to mid-2014. After that, the Australian government pivoted away from offshore processing in favour of boat turnbacks. This dilemma should now be in Australia's past, but the issue drags on because of the people who arrived back then remain stuck in limbo waiting for a durable solution.

Australia's offshore processing arrangements were established by a series of memoranda of understanding (MOUs) with Nauru and PNG. A first set of two MOUs founded the policy in August and September 2012. These agreements were superseded by a second set of two MOUs and a 'Regional Resettlement Arrangement' with PNG in July and August 2013, giving effect to the Australian policy change preventing settlement of refugees in Australia.

Offshore processing was one part of a suite of deterrence policies that the Australian government initiated. In the 1990s, Australia introduced mandatory and indefinite detention, followed later by temporary protection visas. Neither of these policies had an effect on the number of people trying to reach Australia by boat to seek protection. After that, Australia introduced offshore processing and boat turnbacks. A research report by the Kaldor Centre shows that it is boat turnbacks, not offshore processing, that ultimately resulted in a reduction of boat arrivals. When the government reintroduced offshore processing in 2012, it didn't come with durable solutions (that is, an answer as to what would happen to people once found to be refugees). Refugees were used as hostages, indefinitely, in order to send a signal to others not

to get on boats and seek asylum in Australia. The idea was that people were going to be stuck offshore forever in order to send this 'deterrent' message. /3

It was quickly evident that many people became very unwell. We saw suicides, medical neglect and sexual abuse, particularly of women and children on Nauru. One of the lessons we learnt was how to prevent this information becoming public. The governments of Australia, PNG and Nauru went to great lengths to stop information from the offshore processing facilities from reaching the media. It was very deliberately "out of sight, out of mind." (Reference: Thom, Graham (2022): Overview of Offshore Processing, Amnesty International Australia

Ultimately, about 3,000 people were sent to PNG and Nauru. One thousand of those people have now been resettled in the United States – that was one of the solutions that the government eventually had to come up with in terms of finding third countries for resettlement. About 700 to 800 people decided to go home; very few of these were 'forced' returns, but there were concerns about the pressure they might have felt to go back. Today, we still have approximately 100 people on Nauru and 100 people in PNG.

We also have over 1,000 people now in Australia who have been brought here for medical treatment and are either in community detention or on very short-term bridging visas with limited rights. They remain in limbo, although the Australian government has recently agreed to resettle people to New Zealand. But these are people who have built their lives in Australia over several years – they have jobs and children born here who are being educated in Australia, and many want to remain here rather than pursue one of these third country settlement deals.

### **This Submission**

Specifically, our submission addresses many failures within the current system. We include:

- The surrender of the government's historic responsibility for processing and resettlement of asylum seekers by negotiating loose arrangements with countries such as PNG and Nauru.
- the lack of close monitoring by the Federal Government over many years of the processing of applications for refugee status, with many rejected because they do not have the required documents, often lost in their escape from life-threatening circumstances
- the alleged corruption of the companies, many foreign-owned, that have been allocated millions of dollars to carry out tasks which should have been a public service responsibility
- poor financial oversight in relation to offshore detention spending and wastage of funds which could have supported the successful applicants to settle into the community
- a lack of concern of how offshore processing negatively affects people detained there, documented by medical staff sent to meet severe health situations which could have been avoided with adequate early detection
- evidence of mental health deterioration as a result of a failure by those detained about how long the detention will be maintained

### **Reports from United Nations Human Rights recent reviews of Australia's Polices**

Evidence from the two reports released by **UN Human Rights Committee in January 2025** and the **Human Rights Council's Universal Periodic Review in January 2026** is conclusive in substantiating the failures itemised above. These findings were described in Media Releases issued at the time the reports were made public and in each case responses from the government have yet to be announced.

Firstly, in January 2025 with two landmark decisions, the **UN Human Rights Committee** ruled that Australia remains responsible for the arbitrary detention of asylum seekers redirected or transferred to offshore detention facilities in the Republic of Nauru. The Committee published its decisions on two cases involving refugees and asylum seekers who have endured prolonged and arbitrary detention in the Regional

Processing Centre in Nauru. Australia signed Memoranda of Understanding with Nauru in 2012 & 2013 /4 allowing Australia to forcibly redirect and transfer asylum seekers to the Pacific Island nation for processing.

Explaining the UN Committee's decision Committee member Mahjoub El Haiba said, "A State party cannot escape its human rights responsibility when outsourcing asylum processing to another State," adding that, "Where a State exercises effective control over an area, its obligations under international law remain firmly in place and cannot be transferred."

In the case concerning the second refugee, the Committee observed that Australia had not demonstrated on an individual basis that the victim's prolonged and indefinite detention was justified. The Committee thus found that Australia had violated Article 9(1).

"These decisions send a clear message to all States: Where there is power or effective control, there is responsibility. The outsourcing of operations does not absolve States of accountability. Offshore detention facilities are not human-rights free zones for the State party, which remains bound by the provisions of the Covenant," said El Haiba.

The Committee called on Australia to provide adequate compensation to the victims and take steps to ensure that similar violations do not recur. Specifically, it urged a review of migration legislation and bilateral transfer agreements to align with international human rights standards.

Most recently, in January 2026, the United Nations Human Rights Council conducted its fourth **Universal Periodic Review (UPR)** of Australia's human rights record. Over 120 member states participated in conducting the Review, issuing approximately 350 recommendations for reform. While these recommendations are very recent, we hope that the Inquiry will address the seriousness of the findings of these human rights specialists.

Key findings and areas of concern from the recent 2026 review and the related 2025 UN report include:

### **Refugee and Asylum Seeker Policies**

- **Offshore Detention:** Multiple nations, including Brazil, Finland, and Germany, called for an immediate end to **offshore processing** of asylum claims.
- **Arbitrary Detention:** The UN Human Rights Committee found Australia responsible for the arbitrary detention of asylum seekers in offshore facilities in early 2025.
- **Nauru Agreement:** Criticism was directed at a 2025 agreement with Nauru, which some experts described as a "back-door deportation scheme".

Significantly, in relation to Human Rights Legislation the Periodic Review declared that Australia remains the only Western democracy without a federal Human Rights Act. The UN review strongly recommended legislating a **National Human Rights Act** to provide clear minimum protections for applicants for asylum.

**There have been some initial responses to the findings of the UN Human Rights Council's UPR.**

**Sam Klintworth, National Director at Amnesty International Australia said:**

"Countries comprising the UN Universal Periodic Review also called for Australia to end its policy of detaining refugees and people seeking asylum offshore. This recommendation was made at Australia's previous review in 2021. Despite these recommendations, and repeated calls from Amnesty and others to end offshore detention, the Albanese government reached an agreement with Nauru in 2025 that effectively creates a back-door deportation scheme. The review makes it clear that the government must end offshore detention for refugees and people seeking asylum and allow those transferred to Nauru and Papua New Guinea to resettle in Australia.

**In a response on 3 February 2026 the Refugee Council of Australia(RCOA)reported under the heading: /5** UN member states have questioned Australia’s record on detention and discrimination, with the following:

“Seventy-three UN member states raised concerns about and recommended changes to Australian Government policies related to refugees, people seeking asylum, stateless people, immigration detention, racial discrimination and the protection of migrant workers when Australia’s human rights record came up for its fourth five-yearly Universal Period Review (UPR) in January 2026.

Of the 120 UN member states participating in Australia’s UPR hearing before the UN Human Rights Council in Geneva on 26 January 2026, 23 states made recommendations or comments about Australia’s offshore processing and immigration detention policies and two states asked questions in advance. Brazil, China, Finland, Germany, Serbia, Switzerland and Türkiye unequivocally called for an end to Australia’s offshore processing of asylum claims. Another six states recommended that Australian governments comply with UN mechanisms related to torture, particularly the Optional Protocol to the UN Convention Against Torture.”

The response stated that the RCOA has compiled a report which includes recommendations from UN member states, reflections on Australia’s policies from UN bodies, the response from the Department of Home Affairs and links to other documents related to the review of Australia’s human rights record.

### **Credible Alternatives to the current practices of Offshore Processing have been proposed**

In *The Conversation* on July 26, 2023, authors from the Andrew & Renata Kaldor Centre for International Refugee Law, UNSW Sydney, led by Jane McAdam, stated:

“As the number of people in need of protection grows every year, it is imperative that unlawful and unsustainable efforts to push the problem elsewhere be reversed. Bringing Australia’s offshore processing policy to an end is an important first step. But Australia must also look ahead to the challenges and opportunities that forced migration will create in the coming decade.” These are the alternatives proposed which are quoted verbatim:

### **Regional cooperation on asylum**

By the end of 2022, there were around 14 million displaced and/or stateless people in the Asia-Pacific region. This included seven million refugees, five million internally displaced people and 2.5 million stateless people. Violence, conflict and persecution in Afghanistan and Myanmar have produced the largest number of displaced people. Of particular concern are the millions of Rohingya living in extremely precarious conditions in Bangladesh.

Australian policy seems to be premised on the idea that without strong border controls, all these people would set sail for our shores. The reality, though, is vastly different. Indeed, since 1975, 90% of refugees displaced in the Asia-Pacific region have stayed as close to home as possible. However, in countries of first contact, many lack basic rights to work, health care and education, and are at risk of destitution, detention or exploitation. This means that, without a concerted effort to improve protection for refugees in the region, we will likely see more people in search of their own solutions.

The challenges of displacement are global in nature, and its multi-layered causes mean there are no simple solutions. But we have a better chance of managing displacement with clear-eyed, collaborative and holistic responses, rather than unilateral policies aimed at deterrence and deflection.

### **What should Australia do?**

First, we need to move from a responsibility-shifting to a responsibility-sharing approach.

In recent years, our government has asked countries in the region for help in stopping people from trying to reach Australia. But our credibility and moral authority to promote constructive responses to the

problem have been fundamentally undermined by policies such as offshore processing and turning /6  
back boats.

Above all, we need to listen, not lecture; to collaborate, not cajole. By listening to other governments, as well as civil society and refugee-led organisations in the region, we will gain a better understanding of their perspectives and needs.

We need to take a “whole-of-society approach”, engaging a diverse set of stakeholders to meet the needs of asylum seekers collaboratively. The UN High Commissioner for Refugees has recently emphasised that countries must also take a “whole-of-route approach”, ensuring protection at every stage of an asylum seeker’s journey.

In the short term, Australia should work with governments in the region to help provide refugees and other displaced people with basic rights and protections. By improving conditions in these countries, we could reduce the need for onward travel to Australia.

There is considerable goodwill right now, with Indonesia, Malaysia, the Philippines and Thailand all signalling a desire to improve their legal frameworks in this area. For instance, Thailand is developing a new “national screening mechanism” to identify refugees, while the Philippines recently revised its systems for determining refugee and statelessness status and has pending legislation on a number of issues.

In return for governments in Southeast Asia adopting reforms, Australia should significantly increase the number of people it resettles from these countries and create other “complementary pathways” to protection. We should also develop more strategic responses in acute crises, just as we did for people fleeing Ukraine last year.

This would be a win–win. More people would be afforded protection in Australia through orderly programs, and those remaining in the region would have basic rights they currently lack.

We also need to engage in diplomatic efforts to encourage other countries in the region, such as New Zealand, Japan and South Korea, to increase their resettlement quotas.

And Australia should provide better resourcing to UNHCR, as well as to local networks and civil society initiatives, such as the Asia Pacific Refugee Rights Network and the Asia Pacific Network of Refugees.

This is not only the right thing to do, but would also be more effective and efficient than current approaches. It is in our national interest not to ignore or compound the consequences of unresolved displacement in our region.

### **Achieving better protection outcomes**

Over the longer term, we should promote respect for human rights and the rule of law, increase our contributions to aid and development in the region, and work to reduce conflict and the negative effects of climate change. These efforts could help ease the conditions that force people to leave their homes in search of safety. This could also improve conditions for the safe, dignified and sustainable return of those not in need of protection.

Finally, success should not only be measured by whether a state has ratified a particular refugee treaty or adopted national asylum legislation. Essentially, it is the implementation of policies that matter. Protection outcomes for real people are what matter. In other words, are the needs of displaced people and their host communities being met?

This is why we need to develop a more collaborative approach across the Asia-Pacific to ensure that displaced people can move on with their lives in safety and with dignity - whether that is in Australia or elsewhere in the region.

In so doing, we must ensure the concerns and voices of those most directly impacted are heard and /7 addressed.” End quote from the Kaldor Centre proposals.

## Conclusion

Like the UN Human Rights’ Council in its Fourth Universal Periodic Review, and the various respondents since the findings of the UPR were released, the members of our Christians for Peace Newcastle group have no doubt that Australia’s cruel and costly offshore processing system has been a failure. The Senate Committee of Inquiry must accept this reality and come up with proposals for the future that acknowledge the basic human rights of all asylum seekers, which are guaranteed under the UN protocols to which Australia is a signatory.

All member nations must accept that in a context of continuing wars and internal conflicts, to which they contribute with the endless production and export of weapons, there will be increasing numbers of victims escaping in order to survive and new policies are essential to address this worsening situation. The numbers of asylum seekers will not diminish in the foreseeable future.

We await your response to the issues raised in this Submission: Contact details: 

## References

*Australian Churches Refugee Taskforce (ACRT) welcomes Senate Inquiry into Offshore Processing of Refugees* reported in National Council of Churches in Australia Newsletter Friday 6 February 2026

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