



We work for a reset of Australia's refugee policy that is consistent with

- our international obligations
- our national tradition of welcome for those seeking asylum
- basic rights to enduring protection for refugees with safe settlement support

## GRANDMOTHERS FOR REFUGEES

**SUBMISSION TO:**

### **MIGRATION AMENDMENT ACT (EVACUATION TO SAFETY) BILL 2023.**

#### **INTRODUCTION**

Grandmothers for Refugees Australia welcomes the opportunity to provide a submission to the Senate Legal and Constitutional Affairs Legislation Committee's inquiry into the Migration Amendment (Evacuation to Safety) Bill 2023.

Grandmothers for Refugees supports the Bill because it proposes a workable way forward that is consistent with current Labor party policy settings, and importantly, ensures that evacuees will have access to quality medical and mental health services. These are urgently required after they have spent nearly 10 years trapped indefinitely in inhumane conditions, separated from family, and without hope for the future. We strongly urge the government to provide compassionate treatment of refugees with families in Australia.

Our submission concludes with 2 recommendations reflecting our support.

On Friday 24 February, the closing date for this submission, it will be 3,409 days since 19 July 2013 when asylum seekers arriving by boat were arbitrarily sent offshore. Currently approximately 148 people are still in detention (88 in PNG and 60 in Nauru). The Australian Refugee Advocacy Network has estimated in December 2022, that 75 people have no pathway to safe resettlement.

Offshore processing and years of detention is unnecessary, cruel and an egregious denial of human rights. The Bill is a welcome step towards ameliorating the harm caused by lengthy mandatory detention.

#### **GRANDMOTHERS FOR REFUGEES**

Grandmothers for Refugees is an independent Australia wide community movement with approximately 2000 members, organised in electorate groups. As grandmothers, we are strong and passionate advocates for compassionate welcome and safe settlement of all people seeking asylum. We also advocate for human rights observance for those subjected to the physical and psychological damage inflicted by Australia's offshore and onshore processing.

We advocate directly with local members of parliament and senators to see repeal of unjust laws and policies that have caused immense mental and physical harm to people seeking asylum. We are not aligned with any political party or lobby group.



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We campaign for:

- A reset of Australia's refugee policy to provide compassionate welcome, enduring protection, and safe settlement of all people and their families seeking asylum
- Immediate release from detention of all refugees and people seeking asylum
- An end to mandatory detention of people seeking asylum, both onshore and offshore
- Rights to permanent protection - ending all forms of temporary visas for refugees
- Appropriate support for all refugees, people seeking asylum and families
- Policies which assist refugees to reunite with their families.

## **OUR KNOWLEDGE OF REFUGEES HELD IN OFFSHORE DETENTION**

We have met and spoken with men who were held on Manus Island and Nauru and heard their stories. Over the past year, we have held regular Sunday vigils for men who have been 'medivaced' and subsequently held in indefinite detention in hotels across the country including the Park Street, Carlton, Detention Centre. We have supported individuals as they deal with the immigration system on release to the community.

One of our members has been communicating with an Iranian refugee on Nauru where he has been held in offshore detention for more than 10 years. His son and daughter were brought from Nauru to MITA (Melbourne Immigration Transit Authority) for medical treatment. Our member visited his daughter in MITA before she was transferred to USA. His son was released into community detention and his wife and other daughter are still in Iran where the situation is unsafe. His mental health is deteriorating and his suffering is becoming unbearable. He hoped he might get better treatment from the new Australian government. His details can be provided if required.

This story highlights not only the arbitrary nature of detention but also the impact of family separation and dislocation on those who are already suffering trauma from fleeing persecution, war and danger.

## **KEY POINTS**

1. **We support** the Bill's call to Government to make an offer within one month, to all persons, and their children, subject to offshore processing still in PNG or Nauru, to leave and travel to Australia. [199A, 199B].
2. **We support** their urgent transfer to Australia and release into community detention. [199C (1) (a)(b)].
3. **We support** the Bill's requirement for the Minister to exercise their responsibility to arrange for appropriate medical or psychiatric assessment or treatment to be made to the people transferring as soon as practicable after their arrival in Australia. [199C (1) (c)].
4. **We support** the requirement that a transferred person is identified by their name and not by a description. [199C (2) (a)].



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5. **We support** assisting them to seek permanent relocation in a third country that meets the human rights conventions as identified in the Bill. [199B (1)]
6. **We support** the clauses requiring the Minister to report to Parliament on why a person was deemed ineligible to receive an offer of transfer, and the reasons for any delays in transfer for people accepting an offer. [199F,199G]. These reports must be de-identified.

## WHY WE SUPPORT THE BILL

### OFFSHORE DETENTION IS UNSAFE

#### **Offshore processing does not save lives.**

In fact, it has contributed to the deaths of many people and caused significant mental and physical harms for others. Since its reintroduction in 2012, 14 people have died in offshore process and more in Australia following medical evacuation including from suicide and medical neglect. (Australian border death data base- Monash University)

<https://www.monash.edu/arts/border-crossing-observatory/research-agenda/australian-border-deaths-database>

#### **Offshore processing does not deter desperate people fleeing danger.**

*'Everyone has the right to seek asylum from persecution. These human rights don't change based on race, religion, sex or nationality. Human rights don't change based on whether you seek safety by land, air or sea. People fleeing war and persecution have few options.'*

(United Nations High Commissioner for Refugees <https://www.unhcr.org/en-au/human-lives-human-rights> )

The Australian Government hasn't sent anyone to offshore processing since 2014.

Independent [academics have found that the policy of offshore processing is not an effective deterrent](https://kaldorcentre.unsw.edu.au/publication/immigration-detention#footnote8_ozzpxqa) to irregular maritime migration. ([https://kaldorcentre.unsw.edu.au/publication/immigration-detention#footnote8\\_ozzpxqa](https://kaldorcentre.unsw.edu.au/publication/immigration-detention#footnote8_ozzpxqa) )

#### **Offshore processing violates human rights for safety.**

It is a basic human right to seek asylum if your life or freedom is threatened regardless of how you arrive. Most people seeking asylum who arrive by boat, ('unauthorized maritime arrivals'), are found to be 'genuine' refugees.

For those fleeing persecution, it can be risky and difficult to try to get a passport or a visa. "Normal" processes are often broken down or non-existent. In some countries, an 'exit visa' is required for permission to leave the country. Fleeing war or conflict is often chaotic, and generally there is no time to research, plan and apply for a visa.



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## Urgent evacuation is needed to address medical needs and prevent further harm.

Reports have established that refugees in PNG and Nauru suffer serious ill-health without access to adequate medical care. Family separation, poor physical environments and denial of access to basic human rights have caused a multitude of adverse psychological and physical conditions. Some have endured 10 years in locked detention;

The Senate Inquiry Report 2017 into Alleged Abuse, Self-harm and Neglect on Manus and Nauru found that the main factors leading to allegations of abuse, self-harm and neglect were:

- a damaging living environment, characterized by harsh conditions, inadequate health services, and cultural and social barriers
- uncertainty about the future, worsened by the significant average length of time spent at the Regional Processing Centres
- the impact of long-term family separation
- lack of appropriate regulation, such as a child-protection framework in Nauru
- a lack of transparency, accountability and scrutiny of the authorities.
- Need for medical attention and treatment

After a decade, every refugee held offshore requires medical care and needs immediate medical evacuation to Australia.

## AUSTRALIA MUST MEET ITS INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

Australia's legislation and policy to date has denied the human rights of vulnerable people, and failed abysmally to comply with our responsibilities as signatories to the UN Convention Relating to the Status of Refugees 1951, and the 1967 Protocol relating to the Status of Refugees, and other Conventions that define universal human rights such as freedom from torture, freedom from arbitrary arrest, enforced family separation and access to basic human resources. Australia's policy of detaining asylum seekers and refugees in Nauru and PNG is a large contributor to Australia scoring below New Zealand and the UK on observance of refugee human rights. (<https://humanrightsmasurement.org>).

Australia is the only country in the world where mandatory detention is enshrined in legislation. ([https://www.kaldorcentre.unsw.edu.au/publication/immigration-detention#footnote8\\_ozzpxqa](https://www.kaldorcentre.unsw.edu.au/publication/immigration-detention#footnote8_ozzpxqa))

Australia's policy of mandatory detention breaches the right not to be arbitrarily detained under article 9(1) of the International Covenant on Civil and Political Rights (ICCPR).<sup>18</sup> Introduced by the Keating government in 1992 it was designed to be an 'interim measure', however 21 years later Australia is still using this policy for perceived political advantage. ([https://www.kaldorcentre.unsw.edu.au/publication/immigration-detention#footnote10\\_1wa03tq](https://www.kaldorcentre.unsw.edu.au/publication/immigration-detention#footnote10_1wa03tq))

The Kaldor Centre states that: *'Under international law, detention is only lawful if it is reasonable, necessary and proportionate in all the circumstances, and can be periodically reviewed. While it might be permissible to detain an asylum seeker for a brief initial period to document their entry to the country, record their claims, and verify their identity, it is arbitrary – that is, unlawful – to continue to detain them while their refugee status is being determined.'*



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## **AUSTRALIA MUST REPAIR ITS TARNISHED INTERNATIONAL REPUTATION**

Australia's historically good reputation for human rights observance and fair and compassionate treatment of those in need has suffered severely on the international stage in the last 10 years.

This year, Australia's Human Rights Commissioner, Lorraine Finlay, commenting on the Human Rights Watch Report (2023) stated that Australia's treatment of asylum seekers (and incarceration of Indigenous people) are key issues that have harmed the government's credibility to promote human rights in the region

(<https://humanrights.gov.au/about/news/opinions/australia-needs-deliver-our-treaty-promises>)

## **FINANCIAL COSTS TO THE NATION ARE TOO HIGH**

Offshore detention and processing have cost the Australian government over the period 2013 to 2020. In October 2022, the Albanese Government contracted the US private prison company, Management and Training Corporation (MTC), to hold refugees on Nauru until September 2025, costing the community a staggering \$421,830,424 or \$140,610,141 per year to hold 60 detainees. ([https://www.tenders.gov.au/Cn/Show/c680beb9-121c-4afd-8d38-2848da3e9e86?utm\\_source=Media+contact&utm\\_campaign=f88e0672f4-MediaRelease\\_07052020\\_COPY\\_01&utm\\_medium=email&utm\\_term=0\\_2f5f078c69-f88e0672f4-293750786&mc\\_cid=f88e0672f4&mc\\_eid=9b4095a869](https://www.tenders.gov.au/Cn/Show/c680beb9-121c-4afd-8d38-2848da3e9e86?utm_source=Media+contact&utm_campaign=f88e0672f4-MediaRelease_07052020_COPY_01&utm_medium=email&utm_term=0_2f5f078c69-f88e0672f4-293750786&mc_cid=f88e0672f4&mc_eid=9b4095a869).)

Such expenditure, at this time of increasing demand on the federal budget, is unreasonable and short sighted. In addition to the financial impact, the well documented human cost of physical and mental harm inflicted on those held in offshore detention is a shameful indictment of Australia's attitude to people seeking asylum and safe haven in our country.

## **RECOMMENDATIONS**

Grandmothers for Refugees recommends that:

1. The government adopts the Bill.
2. Relevant Ministers exercise compassion in making determinations regarding responses to offers of third-country settlement.