Submission to the United Nations Special Rapporteur
on the human rights of migrants

Australia: Leaders in externalisation and abuse

ASRC
Asylum Seeker Resource Centre

Introduction

Founded in 2001, the Asylum Seeker Resource Centre (ASRC) is Australia's largest independent aid and advocacy organisation for people seeking asylum and refugees. Our services include legal, casework, housing, medical, education, employment and emergency relief. Based on what we witness through our service delivery, we advocate for change alongside refugees to ensure their human rights are upheld.

The ASRC operates Australia's longest-running detention casework service, the Detention Rights Advocacy Program (DRAP), and has supported people subjected to offshore processing since the introduction of the "Pacific Solution" in 2001. This includes recent advocacy and support for people released from immigration detention following the High Court's 2023 NZYQ decision, many of whom now face deportation to Nauru.

Through decades of direct engagement, the ASRC has deep expertise in the human rights violations arising from Australia's offshore processing regime in Nauru and Papua New Guinea, where Australia has externalised its obligations under the Refugee Convention. Australia is now a global leader in punitive externalisation policies, which are increasingly being replicated elsewhere, including the USA, UK and the European Union. The ASRC welcomes the opportunity to provide this submission to the UN Special Rapporteur on the human rights of migrants.

1. Recent trends and human rights violations

Offshore Processing & the Nauru deportation deal

The harms of offshore processing are well documented, including fourteen deaths, widespread abuse, medical neglect, and suicide contagion among children.[1] In 2025, a UN human rights committee reaffirmed that Australia remains responsible for those held offshore[2]; however, the Australian Government continues to outsource accountability for its policies and responsibilities to people seeking safety by sea to the Nauruan Government. Women, children[3], and men continue to be transferred to Nauru for their refugee claims to be processed, serious human rights violations persist, and the majority of people experience severe physical and mental illness.

Australia's new $2.5 billion deportation deal with Nauru [4] risks breaching the Refugee Convention by using third states to refoul NZYQ affected refugees. Recent legislation, including the *Migration Amendment (Offshore Processing and Detention) Act 2025* [5], was rushed through the Australian Parliament in an attempt to limit accountability and overcome legal challenges to indefinite detention. All of this has been done without transparency, as the Australian Government has refused to release critical information. It is only through our work supporting people in detention that the ASRC has been able to continue exposing detention conditions and systemic human rights abuses.

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1 Finish this Crisis: stories exposing the horrors of offshore detention 2023 ASRC23-Finish-This-Crisis.pdf

2 UN Ruling on Australia's responsibility for people transferred to Nauru, UNHCR Asia Pacific UN ruling on Australia's responsibility for people transferred to Nauru | UNHCR Asia Pacific

3 A teenager is among the first boat arrivals sent to Nauru in nine years - ABC News

4 ABC News; Guardian Australia; Senate Estimates, evidence on Australia–Nauru deportation agreement, 2024–2025.

5 *Home Affairs Legislation Amendment (2025 Measures No. 1) Act 2025* (Cth).

Republic of Nauru

According to ASRC data, around one hundred people are currently held in the Republic of Nauru under Australia's offshore processing regime. New arrivals are detained for one to three months in closed, prison-like conditions at RPC-1 before being released into extreme poverty in RPC-3 or community accommodation. Their confinement is arbitrary and indefinite, with no clear timelines, no meaningful decision-making processes, and no genuine resettlement pathways, even for people already recognised as refugees. This prolonged uncertainty inflicts serious psychological and physical harm.

People are living in destitution and food insecurity, forced to survive on a fortnightly stipend of just $230 to cover food, water, phone and internet. Many are skipping meals, relying on fishing to eat, and have no access to safe drinking water without boiling it. People are routinely pressured to accept so-called resettlement packages to their countries of origin, without transparency or credible assessment of the risk of persecution or harm. Healthcare on Nauru is profoundly inadequate. Physical and mental health deteriorates the longer people remain there, with long waits for specialist care, inadequate mental health services, and a ban on telemedicine that prevents Australian clinicians from providing remote care. At the same time, people report escalating violence, including recent assaults, threats and theft, leaving them unsafe and increasingly at risk of serious injury or death.

Papua New Guinea

The Australian Government formally ended offshore processing in PNG in 2021. However, thirty-one refugees and people seeking asylum who were sent to the Manus Island detention centre in 2013 remain in Port Moresby, many with family who have subsequently joined them. Treatment on Manus Island was documented as amounting to torture, inhumane and degrading treatment[6] and after years of prolonged detention, family separation, human rights abuses, and neglect, people are severely traumatised and experiencing profound physical and mental health deterioration. They are currently living in the community in precarious conditions. Port Moresby is one of the most dangerous cities in the world, exposing families to violent attacks, theft, and home invasions. Resettlement options have been lengthy, and many individuals are now too mentally unwell to engage in the processes. Refugees who have been refused resettlement, or who fall outside the New Zealand or Canada pathways, are being pressured into permanent settlement in PNG despite the country's inability to provide adequate healthcare for their complex conditions.

Many refugees require urgent medical evacuation. Some are in a catatonic state and at risk of death. The Minister for Home Affairs and the Department of Home Affairs have received numerous medical reports and risk notifications from health professionals and the ASRC detailing severe physical and mental health conditions and risks to life, but have ignored them. There is limited financial support provided by the Australian government for shelter and healthcare, but that will end in April 2026, and people face further insurmountable challenges. Without financial support, secure housing, food, healthcare, or access to essential medications, many are at serious risk of homelessness or death due to their deteriorating health.

Deportations of the NZYQ cohort to Nauru

The newly passed *Home Affairs Legislation Amendment (2025 Measures No. 1) Act 2025* law[7] gives the Australian government sweeping new powers to deport people - stripping them of legal and human rights and tearing families apart without notice or right of reply. At the same time, Australia quietly signed a secret deal with Nauru, worth between $2.5 and $7 billion, to accept people forcibly deported from Australia - particularly those released from immigration detention on a Bridging Visa R, following the High Court's NZYQ ruling.[8] Under this arrangement, people will be resettled on 30-year visas. The legislation currently targets NZYQ affected people with offending histories,[9] however it has the capacity to be used for up to 70,000 people in the Australian community.[10]

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[6] *https://www.unsw.edu.au/newsroom/news/2020/03/australia_s-offshore-detention-determined-cruel--inhuman-and-deg*

[7] *Home Affairs Legislation Amendment (2025 Measures No. 1) Act 2025* (Cth).

[8] ABC News; Guardian Australia; Senate Estimates, evidence on Australia–Nauru deportation agreement, 2024–2025.

[9] *NZYQ v Minister for Immigration, Citizenship and Multicultural Affairs* [2023] HCA 37

[10] Commonwealth of Australia, *Parliamentary Debates (Hansard)*, House of Representatives and Senate, debate on the *Home Affairs Legislation Amendment (2025 Measures No. 1) Bill 2025*.

Some NZYQ affected people at risk of deportation to Nauru have intersecting vulnerabilities, including women and queer people who face heightened risks of gender-based violence and persecution due to severe discrimination.[11] Others have serious medical conditions and are at risk of significant health deterioration due to Nauru's inadequate healthcare system.

Refugees deported to Nauru are at risk of onward removal by Nauru, despite Nauru being a signatory to the Refugee Convention, including to countries of origin where they may face serious harm. Nauru is also at risk of violating its own obligations under the Convention. The transcript of an interview kept secret by the Australian Government and recently released by the ASRC shows President of Nauru, David Adeang saying the people to be transferred are 'not refugees' and may be returned home before the 30 years elapses.[12]

Six people have already been deported to Nauru. They appear to be held in RPC-3 under highly securitised conditions, with limited freedom of movement. There is no publicly available information regarding their safety, health, or wellbeing, nor transparency around arrangements for their care and support.

2. Laws and the responsibility vacuum

Since Australia's offshore processing regime began, the Commonwealth has repeatedly sought to avoid legal responsibility for people sent to Nauru and Papua New Guinea, even where those countries are unable or unwilling to meet basic human rights obligations. When advocates have turned to the courts to establish accountability, the Government has often responded by legislating to shut down those claims, including through retrospective amendments made while cases were underway.

Baby Ferouz

After offshore processing resumed, 107 babies were born in Australia because their parents were transferred back for childbirth. The Baby Ferouz case argued that these children had not "arrived by boat" and therefore could not lawfully be sent offshore. After the case was lost, the Government amended the Migration Act to explicitly deem the babies "unauthorised maritime arrivals", making them subject to offshore processing. However, public campaigning and media attention secured their safety in Australia.

Plaintiff M68/2015 v Minister for Immigration [2016] HCA 1 (3 February 2016)

In M68, applicants argued that it was unconstitutional for the Commonwealth to fund detention in a third country. While the case was on foot, the Government amended the Migration Act to insert s 198AH, expressly authorising those arrangements. The High Court subsequently dismissed the challenge.

Plaintiff S99/2016 v Minister for Immigration and Border Protection [2016] FCA 483

In S99/2016, the Federal Court found that the Commonwealth owed a duty of care to an asylum seeker who was raped on Nauru and became pregnant. Because the Minister assumed responsibility for arranging a pregnancy termination and made those decisions in Australia, the Court held the Commonwealth had a duty to ensure the procedure was safe and lawful.

FRX17 v Minister for Immigration and Border Protection [2018] FCA 63 & AYX18 v Minister for Home Affairs [2018] FCA 283

In FRX17 and AYX18, the Federal Court held that the Commonwealth owed a duty of care to refugee children on Nauru whose mental health had deteriorated to the point of repeated suicide attempts or resignation syndrome. Specialist treatment was unavailable on Nauru, and the Court found the Commonwealth's control gave rise to a duty to act. Injunctions were granted requiring the children to be transferred to Australia, alongside more than 24 others in similar circumstances. Following the injunctions, media attention and public pressure secured the removal of all children from Nauru (over 350 people total).

[11] LGBTQ+ refugees in Australia's offshore detention centres, https://www.lowyinstitute.org/the-interpreter/lgbtq-refugees-australia-s-offshore-detention-centres

[12] Nauru president says NZYQ members could go home in interview about secretive deal, https://www.abc.net.au/news/2025-11-25/nauru-president-says-nzyq-could-go-home-/105982474

3. Motivations and impact on third States

Australia's externalisation policies are driven by political opportunism rather than public support. Successive governments have scapegoated refugees and people seeking asylum for electoral gain, relying on secrecy to sustain offshore processing, despite ASRC-commissioned polling showing most Australians do not support harsh refugee policies. Nauru has strong financial incentives to maintain offshore processing and participate in deportation arrangements, reinforced by corporate interests that profit from the system and by broader geopolitical and security considerations in the Pacific.

Australia has a historically exploitative relationship with Nauru, beginning with phosphate mining by Australia, Britain, and New Zealand after World War I. While Australia benefited and Nauru briefly grew wealthy, Nauruans received little profit, and decades of mining caused severe environmental damage. The depletion of phosphate left Nauru dependent on foreign aid and investment, further exacerbated by alleged mismanagement and corruption benefiting foreign administrators and local elites.[13]

Offshore detention has imposed enormous costs on Australian taxpayers, with over $13 billion spent since 2012. Private contractors such as the US-based Management and Training Corporation (MTC) manage detention operations in Nauru; in September 2025, the Australian Government increased payments to MTC to $790 million (~$7.5 million per person). In August 2025, the Finks bikie gang leader was given $40 million for security and policing contracts.[14] These arrangements raise governance, corruption, and mismanagement concerns. As mentioned above, Australia continues to use financial incentives. Nauru's economy remains closely tied to Australia's migration policies.

Australia's engagement with Nauru is also shaped by political and strategic concerns about China's influence in the Pacific.[15] The 2024 Nauru–Australia Treaty formalised aid and security cooperation, committing $140 million to support Nauru and maintain regional influence.[16]

4. Transparency

Numerous Australian and international organisations, including the ASRC, have raised concerns that offshore processing and third-country resettlement in Nauru operate in secrecy. Journalists, lawyers, and human rights monitors face restricted access, enabling abuse, neglect, cruelty, corruption, and serious human rights violations to occur with impunity.

The Australian Government obscures information about people held in Nauru. No publicly released statistics exist from the Department of Home Affairs on the number of people detained [17]and information about detention conditions and the health and welfare of those held is tightly controlled. There is no independent monitoring or oversight body with sufficient powers or resources to scrutinise offshore detention. The Australian Human Rights Commission cannot access offshore facilities due to jurisdictional limitations,[18] and although the Commonwealth Ombudsman previously visited Nauru and PNG, reports were never released.[19] A 2025 NGO submission to the UN Working Group on Arbitrary Detention highlighted the persistent secrecy and lack of oversight.[20]

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13 *Certain Phosphate Lands in Nauru (Nauru v Australia)*, ICJ Reports 1992.

14 ABC News; Guardian Australia, reporting on Management and Training Corporation contracts, September 2025.

15 Australian Government, *2023 Defence Strategic Review*.

16 Australia–Nauru Treaty, 2024; ABC News / Guardian Australia reporting on treaty funding commitments.

17 Department of Home Affairs website Regional processing and resettlement

18 Australian Human Rights Commission, submissions and reports on offshore processing and jurisdictional limits.

19 Commonwealth Ombudsman, evidence to Senate Legal and Constitutional Affairs Committee inquiries on offshore detention.

20 NGO submission to the UN Working Group on Arbitrary Detention, 2025.

Reporting by the Australian *60 Minutes* television program[21] exposed alleged corruption and criminal links. Whistleblowers claimed taxpayer funds were misused through contracts with operators tied to bikie gangs and Nauruan politicians, funding luxury items. Despite awareness of misappropriation, corruption risks, and severe suffering, the government continues the system for political gain. Following the broadcast, Australian media reported that Nauru's President Adeang attended secret meetings with the Home Affairs Minister, the discussions of which were not made public[22].

The Australian Government has also suppressed important evidence regarding the deportation deal. [23] A February 2025 transcript of an interview with Adeang outlining the risk of refoulement was refused after both a Freedom of Information request, and an Order for Production of Documents in the Senate.[24]

5. Technology and private actors

People seeking asylum in closed detention in Nauru report constant surveillance, including CCTV monitoring, metal detector checks, and identification through ID cards. They report that smartphones are confiscated and replaced with basic phones that only allow contact with security or IHMS, with no credit to communicate with lawyers, support services, or family overseas.

6. Persons in vulnerable situations and intersectional discrimination

Intersectional discrimination

Through our work supporting people in offshore detention, we have witnessed acute intersectional discrimination against women, children and LGBTQI+ people. People with intersectional vulnerabilities do not receive additional support or adequate protection, which has severe and life-threatening consequences, including physical and mental illness and suicide. Many experience stigma and violence in detention, with immigration officials lacking training and appropriate protocols to ensure their protection.[25] Homosexuality between men is criminalised in PNG, and the lack of protection provided to them in Manus Island was witnessed by other refugees.[26]

ASRC staff witnessed intersectional discrimination against women, children, elderly persons, people with disabilities, pregnant women, young people, and survivors of torture detained in Nauru.[27] Unsanitary conditions, food, clothing, and physical and mental healthcare are wholly inadequate and fail to support those with vulnerabilities. Women were watched while showering, pregnant women received insufficient food, non-English speakers had their medical requests ignored, a woman over seventy slept without a mattress, and women were not provided with suitable clothing, including underwear.

Protection gaps for women and children in Nauru

To the best of our knowledge, there are currently no women seeking asylum held in Nauru. Many women previously detained experienced systemic physical assault and rape both in detention and in the community.[28] Detention centres lacked adequate protections, leaving women vulnerable to abuse and

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[21] 60 Minutes: How Australia got rid of illegal immigrants https://youtu.be/9hvxVzX0NDI?si=rlooL7OtK1-1bWnj

[22] ABC News. (2025, November 11). *Nauruan president makes secretive trip to parliament amid claims bikies won lucrative contract*.

[23] ABC News; Guardian Australia, reporting on the timeline of negotiations for the Australia–Nauru offshore agreement, 2024–2025.

[24] Nauru transcript exposes Albanese Gov secrecy over billions in offshore spending

[25] Forcibly Displaced People Network, 2025. https://www.fdpn.org.au/publications/crpd-guidelines-on-addressing-discrimination-against-women-and-girls-with-disabilities/

[26] Amnesty International, 2025. https://www.amnesty.org/en/latest/news/2025/04/offshore-detention-is-inhumane-i-know-because-i-lived-it/

[27] Senate Inquiry Submission of Natasha Blucher, Parliament of Australia, p. 11, 2015. https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Regional_processing_Nauru/Regional_processing_Nauru/Submissions?main_0_content_1_RadGrid1ChangePage=5_20

[28] Protection Denied Abuse Condoned, 2016. https://drive.google.com/file/d/1CiusBfyVY7c99dV5q-KETOqW-91Hagdy/view?usp=drive_link

exploitation, often by security guards detaining them. The ASRC has supported dozens of women who suffered severe physical and mental health issues as a result of detention in Nauru, with most experiencing self-harm and chronic suicidality. The ASRC received 45 allegations of sexual harassment and assault from women and children in the period 2015 - 2018. Over 2000 leaked incident reports from the Nauru detention centre also exposed the scale of the abuse, with over half of the incidents involving children.[29] Perpetrators included the Republic of Nauru hospital staff, International Health Medical Services (IHMS) staff, security officers and Nauru Police Force (NPF) officers.[30] Abuse was likely underreported, as many women did not report incidents for fear of retribution.

Women found to be refugees were accommodated in isolated and insecure housing in the Nauruan community, which made them extremely vulnerable to assault and rape. Some who became pregnant as a result of rape sought medical transfer to Australia, as abortion is illegal in Nauru, but were obstructed by the Australian government. Survivors suffered suicidal ideation and severe, long-term psychological damage. The perpetrators were not investigated or charged by either Nauruan or Australian authorities.[31]

ASRC previously worked with over 120 children and their families who were experiencing severe mental illness, the majority of whom expressed suicidal ideation and had attempted suicide. Some of these children had experienced sexual abuse, and in almost all cases, they had witnessed violence and/or self-harm in detention.[32] At least 30 children developed Resignation Syndrome due to prolonged illness, lack of treatment and trauma. The ASRC worked with children aged 7-17 experiencing severe symptoms, including increased rates of repeated suicidal behaviour. More than 24 children required evacuation to Australia for hospitalisation, which the Australian Government consistently tried to obstruct.[33]

The experiences of women and children in Nauru expose the major protection gaps that made offshore processing inherently unsafe for women and children. Concerningly, women and children continue to be transferred to Nauru. Families of refugees abandoned by the Australian government in PNG are at risk of starvation, homelessness and violence, with women and children ineligible for subsidised healthcare. To address protection gaps and prevent intersectional discrimination, gender based violence and harm to children, the ASRC recommends that all women and children held in detention be immediately released and that legislation is passed to prevent any future detention of children.

Conclusion

Australia's externalisation regime has caused profound and ongoing harm to people seeking safety, while deliberately obscuring accountability through secrecy, legislative manoeuvring and the outsourcing of responsibility to poorer states. The evidence set out in this submission demonstrates that offshore processing and third-country deportations are incompatible with Australia's obligations under international law and domestic principles of duty of care. The ASRC urges the UN Special Rapporteur to call on Australia to end offshore processing and forced transfers to Nauru and Papua New Guinea, ensure immediate protection and medical care for those affected, restore transparency and oversight, and bring its migration policies into compliance with fundamental human rights standards. Working to prevent Australia from continuing to engage in the practice of offshore processing is critical to dissuading the rest of the world from following its example, and causing more harm to refugees and migrants around the world.

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[29] The Nauru files: cache of 2,000 leaked reports reveal scale of abuse of children in Australian offshore detention, https://www.theguardian.com/australia-news/2016/aug/10/the-nauru-files-2000-leaked-reports-reveal-scale-of-abuse-of-children-in-australian-offshore-detention

[30] ASRC, updated women in Nauru report - confidential, 2019. https://drive.google.com/file/d/1_p08SqarBrbrwYXdqDu4amO3odTCzuJ_/view?usp=sharing

[31] Protection Denied Abuse Condoned, 2016. https://drive.google.com/file/d/1CiusBfyVY7c99dV5q-KETOqW-91Hagdy/view?usp=drive_link .

[32] ASRC, CONFIDENTIAL: Child suicide and self-harm contagion concerns Nauru, 2018. https://drive.google.com/file/d/1GXfsakzRq9S9q7Nm9jnNNteAj08M6XS9/view?usp=sharing

[33] ASRC, Child Trauma on Nauru, 2018. https://drive.google.com/file/d/1YDb_3SoUjDWXBXZRyWddTCLqmcoafA3k/view?usp=sharing