



Submission to the Department of Home Affairs

Discussion Paper

Australia's Humanitarian Program 2022-23

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Submitted by
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About Amnesty International

Amnesty International is the world's largest independent human rights organisation, with more than ten million supporters in over 160 countries.

Amnesty International is a worldwide movement to promote and defend all human rights enshrined in the Universal Declaration of Human Rights (UDHR) and other international human rights instruments.

Amnesty International undertakes research focused on preventing and ending abuses of these rights. Amnesty International is impartial and independent of any government, political persuasion or religious belief and does not receive funding from governments or political parties.

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Amnesty International campaigns for a world where human rights can be enjoyed by everyone, no matter what situation they are in. Amnesty International has championed the human rights of refugees, people seeking asylum and migrants for decades. We campaign to make sure governments honour their shared responsibility to protect the rights of refugees, people seeking asylum and migrants. We condemn any policies and practices that undermine the rights of people on the move.

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1. Summary

1.1 Amnesty International Australia (AIA) welcomes the opportunity to make a submission to the Department of Home Affairs on Australia's 2022-23 Humanitarian Program.

1.2 Over the past decade, AIA has witnessed firsthand the situation facing refugees in refugee camps in Indonesia, Jordan and Thailand, as well as urban refugees in Kenya, Thailand, Indonesia, and in Malaysia. In 2018 and 2019 AIA researchers were again able to document the ongoing crisis facing refugees in the Middle East, Africa and Europe, including most recently a visit to assess the situation facing Rohingya refugees in Cox's Bazaar in Bangladesh.

1.3 AIA also works closely with NGOs in the region, both on individual cases as well as broader systemic issues. This is often in consultation with the Asia Pacific Refugee Network (APRRN), of which AIA has been a member of since the groups inception.

1.4 Postponements due to Covid-19 withstanding, AIA has had the privilege of attending both the UNHCR-NGO Consultations and the Annual Tripartite Consultations on Resettlement (ATCR) in Geneva over the past 15 years.

1.5 Additionally, AIA maintains ongoing engagement with refugee diaspora communities in Australia and has highlighted cases of significant concern with the Department of Home Affairs (DHA) and UNHCR officials in both Canberra and Geneva. These experiences have provided valuable insights into the challenges facing both refugees in countries of asylum and the challenges facing UNHCR and resettlement countries such as Australia.

1.6 It is within this context, supported by findings stated in UNHCRs *Projected Global Resettlement Needs 2023*, that AIA understands the current refugee crisis to be the largest the world has faced since the Second World War.¹

1.7 Yet despite this, the previous Australian Government in its 2022-23 Federal Budget announced an annual humanitarian quota of just 13,750 places. AIA has continually expressed disappointment at the previous reduction in the humanitarian intake (reduced from the 18,750 in 2019-20 program), particularly in our submission to the government's pre-budget priorities, where AIA called for an increase in the program to at least 30,000 places annually in line with global needs.

1.8 With this noted, AIA's submission will focus on:

1. The International Context
2. Regional Resettlement in Asia and the Pacific
 - a. A Better Plan
 - b. Rohingya Refugees
 - c. Afghanistan
3. The Humanitarian Program
 - a. Size of the Program
 - b. Specific Populations of Concern
 - c. The Special Humanitarian Program and the Principle of Non-Discrimination

¹ UNHCR, '2023 Projected Global Resettlement Needs,' 2022, pg. 14, available at <https://www.unhcr.org/en-au/publications/brochures/62b18e714/2023-projected-global-resettlement-needs.html>

d. Alternative Pathways: the Community Sponsorship Program & the Community Refugee Integration and Settlement Pilot

1.9 The recommendations contained in this submission go towards rebuilding Australia's reputation as a leading resettlement country and helping to address the worsening global refugee crisis.

2. Recommendations

AIA recommends that:

- 1) AIA's *A Better Plan* model be adopted in place of Australia's current regional deterrence policies to strengthen the regional response to growing resettlement needs, including lifting the moratorium on resettlement out of Indonesia;
- 2) the Humanitarian Program continues to provide a targeted number of places for Rohingya refugees from Myanmar, while taking a leading role in resettling Rohingya refugees out of Bangladesh;
- 3) an additional 3,500 places be made available for Afghan refugees in addition to the 16,500 places already committed, and existing applications be expedited and prioritised as a matter of urgency;
- 4) the Australian Government commit to increasing the offshore Humanitarian Program to 30,000 places per annum in the upcoming October 2022-23 Budget, with the vast majority being visa sub-class 200 (UNHCR referred) refugees;
- 5) the Australian Government de-link the onshore component of the Humanitarian Program from the offshore component;
- 6) within the humanitarian intake, the Australian Government include unallocated quotas that can thereby be used in a flexible way for urgent and emergency cases;
- 7) the Australian Government establish a uniform process that would facilitate additional emergency intakes when crises like those we are seeing now occur;
- 8) the Australian Government develop a separate process for refugees who will transition from a TPV or SHEV onto a permanent visa who wish to sponsor their family members;
- 9) the Australian Government urgently process the backlog of resettlement referrals made by UNHCR on behalf of refugees in the Africa region. Moving forward, AIA recommends the Australian Government gives a greater focus to this region in relation to resettlement;
- 10) the Australian Government continues to prioritise groups of concern through the Humanitarian Program, including UAMs and LGBTQIA+ refugees;
- 11) the Australian Government prioritises UNHCR resettlement referrals and take a flexible and non-discriminatory approach to resettlement, ensuring resettlement is granted to those with the greatest protection need regardless of religion, country of origin, gender or other status;
- 12) the Australian Government further reform Australia's two private sponsorship programs, the CSP and CRISP, so that they are in addition to Australia's regular Humanitarian Program;
- 13) the number of places offered under the CSP and CRISP be increased to a combined 5,000 places per annum, increasing to 10,000 places per annum within 5 years; and

14) the Australian Government eliminates any non-protection related criteria from the CSP, such as employment status, age, country of origin and English language proficiency.

3. The International Context

3.1 It is important to note that with the Covid-19 pandemic ravaging almost every country across the globe since early 2020, refugees and people seeking asylum have faced particular vulnerabilities. These include but are not limited to border closures, a lack of access to countries of asylum, as well as difficulties in maintaining safety measures in overcrowded refugee camps and/or detention centres.

3.2 Yet as restrictions on movement ease, and as global conflicts escalate, there are record numbers of people on the move - more than 100 million.² This means that resettlement as a durable solution is now more important than ever.

3.3 As noted by UNHCR, world resettlement needs now exceed 2 million people, an increase of 36% on the previous year.³

3.4 While in 2021, just 57,436 of the world's refugees were resettled, the number of refugees resettled after referral by UNHCR was only 39,266, just 2.7% of the 1.445 million refugees identified as needing resettlement in 2021 and less than 0.2% of the global refugee population.⁴

3.5 To respond to this need UNHCR has stated it will continue to prioritise those who are most vulnerable, including where protection risks are greatest. It is crucial Australia's program reflects the priority needs identified by UNHCR, ensuring the majority of those coming to Australia are referred by UNHCR through a non-discriminatory process.

3.6 Globally, UNHCR has noted that once again Syrian refugees constitute the largest resettlement need of any refugee group, with almost 777,800 Syrian refugees estimated to be in need of resettlement in 2023.⁵

3.7. In addition to Syria, UNHCR has identified four other priority areas, which include the deteriorating situations in the Asia-Pacific region developing from Afghanistan and Myanmar.

Regional Resettlement in Asia and the Pacific

A Better Plan

3.8 In previous submissions, AIA has highlighted *A Better Plan* for the way Australia engages with the Asia-Pacific region and would welcome further engagement on the recommendations outlined in this document.⁶

3.9 As detailed in *A Better Plan*, AIA supports Australia's ongoing aid program to Indonesia, and recommends that greater coordination take place between the aid program and the funding provided to IOM, to support local integration as a durable solution.⁷

² Ibid.

³ Ibid.

⁴ Ibid.

⁵ Ibid, pg. 15.

⁶ Amnesty International Australia, 'A Better plan,' 2018, available at <https://www.amnesty.org.au/wp-content/uploads/2018/05/Amnesty-A-Better-Plan-refugees.pdf>

⁷ Ibid, pg. 21.

3.10 While Australia has already engaged in a number of important regional initiatives, what is needed is greater coordination of both existing and additional initiatives that combine aid, diplomatic efforts and humanitarian assistance in a more holistic approach.

3.11 Australia's aid program needs to be more closely linked to a strategy that improves the circumstances currently facing refugees in the region.

3.12 When people are legally recognised with rights to residence, have access to adequate housing, can access education, fair work and health services and live in safety and dignity, they will not be forced to make dangerous journeys to Australia.

3.13 Unfortunately, rather than a holistic policy that links aid to initiatives targeting displacement, it would appear that where aid allocations are provided to countries in the region there is very little focus on targeting displacement.

3.14 As noted by the Australian Human Rights Commission, with the exception of initiatives in Myanmar that target the root causes of displacement:

“Australian aid programs for the Asia-Pacific region appear to lack a specific strategy for responding to the needs of forcibly displaced people, addressing the root causes of displacement and preventing further displacement.”⁸

3.15 Australia's current policy framework ignores the fact that one of the key causes of people continuing to attempt to travel to Australia is the lack of safety for refugees and people seeking asylum in the Asia-Pacific region. As noted by the University of New South Wales Kaldor Centre for International Refugee Law:

“Despite being the location of a large and enduring portion of the world's displaced population, many countries in the Asia-Pacific region are not parties to the Refugee Convention or Protocol, and do not have the legal frameworks and/or technical and financial capacity to provide protection to refugees. Typically, these countries do not draw a distinction between refugees and illegal immigrants. Consequently, people seeking protection in these countries commonly find themselves in a ‘state of limbo’ – unable to work legally, unable to access education for their children, and liable to arrest and punishment for breach of immigration laws.”⁹

3.16 With a shift from this current approach, AIA also recommends that the Australian Government initiate and maintain a significant and predictable resettlement program out of Indonesia and that the ban on resettling those who arrived after July 2014 be lifted, including the lifting of all resettlement restrictions based on nationality, ethnicity or religion. AIA notes that UNHCR, for 2023, has identified 3,050 persons in need of resettlement from Indonesia. A number of these individuals will have family links to Australia and as such should be prioritised by the Australian Government.

3.17 This recommendation is supported by calls from the UN High Commissioner for Refugees, Filippo Grandi, who stated at the most recent ATCR that it was important for states wishing to improve outcomes for refugees in host countries to have significant resettlement quotas themselves so that host states feel that they are genuinely being supported through

⁸ Australian Human Rights Commission, 'Pathways to Protection: A human rights-based response to the flight of asylum seekers by sea,' 2016, available at http://www.humanrights.gov.au/sites/default/files/20160913_Pathways_to_Protection.pdf.

⁹ UNSW Kaldor Centre for International Refugee Law, 'Regional Cooperation,' 2013, available at <https://www.kaldorcentre.unsw.edu.au/publication/regional-cooperation>.

responsibility sharing. Grandi also stated that UNHCR was able to negotiate more effectively with states neighbouring Syria when each of these states was seeing 20,000 or 25,000 refugees resettled each year, and that we collectively need to become better at leveraging packages of solutions which are strengthened with larger resettlement quotas.¹⁰

Recommendation 1: AIA recommends that AIA's *A Better Plan* model be adopted in place of Australia's current deterrence policies to strengthen the regional response to growing resettlement needs, including lifting the moratorium on resettlement out of Indonesia.

Myanmar and Rohingya Refugees

3.18 Since seizing power in a coup d'état on 1 February 2021, the Myanmar military has committed massive human rights violations across the country. Armed conflict has erupted or escalated in several regions, including in Kayin and Kayah States, on the country's eastern border with Thailand. The military's operations there have reflected its signature policy of collective punishment of civilian communities perceived to support an armed group or, in the coup's aftermath, the wider protest movement. Amid international inaction and waning global interest, the military has proceeded to attack civilians and civilian infrastructure from the air and the ground, unleashing a new wave of war crimes and likely crimes against humanity that have caused mass displacement and a deepening humanitarian crisis.¹¹

3.19 The fighting and myriad violations by the Myanmar military have caused widespread displacement in various parts of the country, including Kayin and Kayah States. In some cases, entire villages have been emptied of their populations; at times, civilians have had to flee more than once over the past months. According to the UN, as of 11 April 2022, there were more than 74,000 people displaced in Kayin State; in Kayah State, the situation was even more dire, with around one third to half of the total population displaced – some 91,000 within Kayah State and tens of thousands more to southern Shan State.¹²

3.20 This is in addition to the targeted violence and persecution perpetrated by the Myanmar military in August 2017, in Rakhine state, that saw 700,000 Rohingya forced to flee, a reality that has contributed to Rohingya refugees being one of the largest refugee populations in the Asia region.¹³ With close to 1 million Rohingya now in camps on the border in Bangladesh it is important that Australia not only continues to join international efforts to support these individuals but also shows solidarity with the region by helping to resettle the small number of Rohingya identified in need by UNHCR in Bangladesh, Malaysia and Indonesia.

3.21 While AIA welcomed the previous government's commitment to earmark 2,000 places within the existing Humanitarian Program for people from Myanmar, concerns remain. Specifically the failure to resettle Rohingya, the largest refugee population in our immediate region. It is difficult to convince our regional neighbours to take a more rights based approach to the treatment of Rohingya refugees in their countries if Australia refuses to show any solidarity through the use of its humanitarian program.

¹⁰ Refugee Council of Australia, 'Report on Annual Tripartite Consultations on Resettlement,' 2022, available at <https://www.refugeecouncil.org.au/wp-content/uploads/2022/08/ATCR-report-2022.pdf>

¹¹ Amnesty International, 'Bullets Rained From the Sky: War Crimes and Displacement in Eastern Myanmar,' 2022, available at <https://www.amnesty.org/en/documents/asa16/5629/2022/en/>.

¹² OCHA, 'Humanitarian Update No. 17,' 2022, available at, bit.ly/3vo7qmP.

¹³ Above, n1, pg. 101.

3.22 It is also important to highlight the fact that Bangladesh is now again allowing resettlement of Rohingya out of the country after over 10 years of restricting any form of resettlement. This is something Australia should not only welcome but given its previous success at resettling Rohingya refugees out of Bangladesh, should take a leadership role in supporting.

3.23 AIA notes that as a percentage of the Humanitarian Program, under the previous allocation, a significant portion of the program is being directed to those from Myanmar, which AIA believes is warranted. However, due to the program remaining at historically low levels, this figure fails to comprehend the crisis at hand. This issue will be dealt with in more detail later in this submission, when discussing how Australia can better respond to emergency situations.

Recommendation 2: AIA recommends that the Humanitarian Program continues to provide a targeted number of places for Rohingya refugees from Myanmar, while taking a leading role in resettling Rohingya refugees out of Bangladesh.

Afghanistan

3.24 Now more than one year on from when the Taliban seized power in Afghanistan, a litany of human rights abuses and violations under international law have been committed by the Taliban, with absolute impunity and zero accountability. As always, it is the civilian population that has suffered.

3.25 Despite the announcement of a 'general amnesty' by the Taliban on 17 August 2021 for those who had worked with the US-led coalition and the previous government, hundreds of former security force personnel and government officials have been subjected to extrajudicial killings, often after public humiliation and torture. Many more have been disappeared.¹⁴

3.26 The human rights crisis in Afghanistan is further compounded by the impact of the ongoing massive humanitarian emergency, which prompted the UN to launch in January 2022 its largest ever humanitarian assistance appeal for any single country.¹⁵

3.27 Within weeks of the Taliban taking power, reports began emerging of non-Pashtun Afghans being forcibly evicted from their homes and farms, so that the victorious Taliban could reward their followers with land taken from other groups, particularly Hazaras, Turkmen and Uzbeks.¹⁶

3.28 These evicted families joined the already huge numbers of internally displaced Afghans. In September 2021, the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) reported that the number of displaced Afghans had topped more than 663,000 people, as Afghans fled the Taliban advance across the country.¹⁷ By June 2022, the OCHA estimated that the total number of displaced people within Afghanistan had grown to 822,546.¹⁸ UNHCR also reported that by May 2022, 2,069,703 Afghans had entered Iran, Pakistan, Tajikistan, Uzbekistan, and Turkmenistan, with 273,955 in need of resettlement.¹⁹ Despite these stark figures, UNHCR

¹⁴ Amnesty International, 'The Rule of Taliban: A Year of Violence, Impunity and False Promises,' 2022, available at <https://www.amnesty.org.au/wp-content/uploads/2022/08/REPORT-The-Rule-of-Taliban-A-Year-of-Violence-Impunity-and-False-Promises.pdf>.

¹⁵ United Nations News, 'Afghanistan: UN launches largest single country aid appeal ever,' available at <https://news.un.org/en/story/2022/01/1109492>

¹⁶ Above, n14.

¹⁷ UNOCHA, 'Global Humanitarian Overview 2022,' available at <https://gho.unocha.org/>

¹⁸ UNHCR, 'Operational Data Portal: Refugees Situation,' available at <https://data.unhcr.org/en/situations/afghanistan>

¹⁹ Ibid.

acknowledges that the actual number of refugees is likely higher because not all refugees are able to register themselves with the agency.

3.29 AIA notes that within Australia's Humanitarian Program (and Family Reunion Program), 31,500 places over 4 years have been made available to Afghan refugees, including 16,500 places in addition to the regular humanitarian intake which was announced in the 2022-23 Federal Budget, a commitment that the new Australian Government has affirmed.²⁰

3.30 While AIA commends the tangible impact of these commitments, the complete total of these commitments were made under the previous Government, with the current Australian Government still yet to make any additional commitments.

3.31 AIA has consistently called for an additional 20,000 places to be made available. To implement this, the Australian Government would need to provide an additional 3,500 places for Afghan refugees to be made available in addition to the regular Humanitarian Program.

3.32 This increased commitment would bring Australia more in line with comparable countries such as Canada, who have made 40,000 places available to Afghans, with the majority of these places in addition to Canada's regular resettlement quota. This is an approach supported by UNHCR who has stated that responses to the crisis in Afghanistan should be in addition to existing commitments.²¹

3.33 Moreover, it is vital that the over 200,000 applications made by Afghan nationals for protection and resettlement to Australia be expedited and prioritised as a matter of urgency.

Recommendation 3: An additional 3,500 places be made available for Afghan refugees in addition to the regular humanitarian intake, and existing applications be expedited and prioritised as a matter of urgency.

4. The Humanitarian Program

Size and Composition of the Program

4.1 In AIA's previous submissions, we have highlighted the need for Australia to increase its offshore Humanitarian Program. As noted above, the world is now facing unprecedented numbers of displaced people.

4.2 AIA recognises the important role Australia has played in resettling vulnerable refugees through the offshore component of the Humanitarian Program, but believes Australia has a responsibility to be doing much more. During 2021, only 350 refugees referred to Australia through UNHCR were resettled.²² While this figure certainly represents the impacts of Covid-19, comparable countries such as Canada welcomed 5,825 refugees referred through UNHCR in 2021.²³

4.3 These comparisons are indicative of the current state of Australia's Humanitarian Program, which as highlighted previously had its lowest intake in 45 years, with only 5,749 visas granted in

²⁰ Minister for Foreign Affairs, 'Anniversary of the fall of Kabul,' 2022 available at <https://www.foreignminister.gov.au/minister/penny-wong/statements/anniversary-fall-kabul>.

²¹ Above, n12.

²² Ibid, pg. 7.

²³ Ibid.

the 2020-21 Humanitarian Program. This is in stark contrast to countries like the United States, which have committed to increasing their humanitarian intake to 125,000 places.²⁴

4.4 AIA appreciates that under current circumstances, there may be capacity constraints regarding settlement services, and a scaled approach may be required. However, AIA strongly believes these constraints will not be dealt with unless there is a clear indication regarding the future of the Humanitarian Program.

4.5 Thus, AIA believes that the Australian Government must commit to increasing the offshore Humanitarian Program to 30,000 places in the upcoming 2022-23 October Budget.

4.6 AIA maintains that as a key resettlement country with a long history of successful resettlement, it is crucial Australia continues to play a leading role in the broader global response. Beyond growing the program, one central reform needed to achieve this is the delinking of the onshore component of the Humanitarian Program from the offshore component.

4.7 If a person is found to be in need of protection in Australia, Australia is obliged under international law to grant them protection. This should not be offset against the needs of vulnerable refugees who require resettlement from overseas. The linking of these two distinct protection methods, by the Howard Government, has had a considerable negative impact on Australia's ability to provide protection to both those it has an obligation to and those it has made a commitment to internationally.

4.8 Australia is unique amongst resettlement countries in linking these programs and it is for good reason others do not. Suffice to say the negative impacts of linking two quite distinct programs have been numerous and varied, including (but not limited to) creating arbitrary delays for those engaging Australia's obligations onshore, as well as undermining Australia's ability to maximise places for those offshore (further concerns will undoubtedly be picked up in submissions by other organisations). As such, AIA believes it should be a priority of the Australian Government to de-link the two programs.

4.9 While there is an obvious global humanitarian need to grow resettlement in Australia, it is also important to note that refugees bring a wide range of skills, experiences and qualifications, and with the right settings can make tangible, measurable contributions to Australian society.

4.10 A 2019 study by Deloitte Access Economics found that increasing Australia's annual humanitarian intake to 44,000 places per annum over a five year period, economic output could increase by \$37.7 billion in net present value terms over the next 50 years, and the economy could sustain an average of 35,000 additional jobs every year for the next 50 years.²⁵

4.11 In addition to expanding the humanitarian intake, AIA also notes that UNHCR further appeals to resettlement States to designate a portion of their quota as unallocated so that it can be used in a flexible way for urgent and emergency cases across the globe and outside these five priority areas.²⁶

²⁴ US Department of State, 'The Presidential Determination on Refugee Admissions for Fiscal Year 2022,' 2021, available at <https://www.state.gov/the-presidential-determination-on-refugee-admissions-for-fiscal-year-2022/>.

²⁵ Deloitte, 'Economic and Social Impact of Increasing Australia's Humanitarian Intake,' 2019, pg. 4, available at <https://www2.deloitte.com/content/dam/Deloitte/au/Documents/Economics/deloitte-au-economics-social-impact-increasing-australias-humanitarian-intake-280819.pdf>.

²⁶ Above, n1, pg. 21.

4.12 While AIA supports such a measure, we also believe that the more recent crises in Ukraine and Afghanistan, as well as Australia's response to them calls for a more uniformed process in regards to the concept of additionality.

4.13 While AIA commends the previous and current government's approach to assisting people seeking safety from Ukraine, it must be noted that the same approach was not taken to refugees from Afghanistan, a country where there is a greater need for resettlement.

4.14 While the number of Ukrainian's arriving in Australia was not capped, the previous Australian Government's initial response to the situation in Afghanistan was originally capped at 10,000 resettlement places within the existing program over the next four years.

4.15 In highlighting this discrepancy, AIA does not wish to deter future governments from responding to crises such as that in Ukraine the way the previous government did. In fact, quite the opposite. The aim however is to highlight the importance of non-discrimination in the application of these responses and corresponding programs, which will be dealt with in further detail later in this submission.

4.16 To achieve this, AIA maintains that Australia must also establish a process that would facilitate additional emergency intakes when crises like those we are seeing now occur, built on the foundations of a non-discriminatory approach.

4.17 AIA also notes that the Australian Government has made a commitment to abolishing Temporary Protection Visas (TPVs) and Safe Haven Enterprise Visas (SHEVs) and granting refugees on these visas permanency. AIA strongly supports this reform as a matter of urgency.

4.18 While the transfer of this group on to permanent visas should have no impact on the offshore Humanitarian Program, AIA does note with concern that a considerable number of people in this group will lodge applications for family reunification, creating further backlogs within an already strained system.

4.19 AIA supports the Refugee Council of Australia's (RCOA) recommendation to this process that the Australian Government should develop a separate process for refugees who will transition from a TPV or SHEV onto a permanent visa who wish to sponsor their family members.

Recommendation 4: AIA recommends that the Australian Government commit to increasing the offshore Humanitarian Program to 30,000 places per annum in the upcoming October 2022-23 Budget, with the vast majority being visa sub-class 200 (UNHCR referred) refugees.

Recommendation 5: AIA recommends that the Australian Government de-link the onshore component of the Humanitarian Program from the offshore component.

Recommendation 6: AIA recommends that within the humanitarian intake, the Australian Government include unallocated quotas that can thereby be used in a flexible way for urgent and emergency cases.

Recommendation 7: AIA recommends that the Australian Government establish a uniform process that would facilitate additional emergency intakes when crises like those we are seeing now occur.

Recommendation 8: AIA recommends that the Australian Government develop a separate process for refugees who will transition from a TPV or SHEV onto a permanent visa who wish to sponsor their family members.

Specific Populations of Concern

4.20 As per previous submissions, AIA believes the Humanitarian Program has the capacity to target a number of specific at-risk populations, in addition to its longstanding commitment to Women at Risk (a commitment that continues to be strongly supported by AIA).

4.21 AIA also strongly supported the previous pilot's focus on unaccompanied minors, children and adolescents at risk, as well as those refugees targeted as members of the LGBTQIA+ community. Having engaged with the DHA specifically on a number of cases in these categories it is clear Australia not only has a proven track record with these vulnerable groups but has capacity to increase its commitment.

4.22 While AIA has highlighted the specific needs of Afghan and Rohingya refugees above, we are gravely concerned that Australia's commitment to refugees from Africa continues to decline. This is despite UNHCR again noting that as a region, Africa has the highest projected resettlement needs for 2023, at over 660,000.²⁷

4.23 Despite this, for 2021-22, of the 9,252 offshore grants made by Australia, less than 10% were to refugees from Africa.²⁸ This is compounded by the fact that from one African region alone (East, Horn of Africa and Great Lakes region) Australia has over 3,650 cases pending.²⁹ Until the Australian Government makes a decision on these cases, UNHCR cannot refer them to other potential resettlement countries, hence prolonging their displacement.

4.24 AIA believes that as a matter of urgency, the Australian Government must prioritise the processing of these referrals, as well as ensuring a greater commitment to refugees from the Africa region moving forward.

4.25 In ensuring Australia maintains a globally balanced program, AIA again welcomes Australia's commitment to take specific at-risk populations from the Americas. In particular AIA supports Australia's ongoing commitment to the Protection Transfer Agreement Program (PTA). As noted by UNHCR, El Salvador remains one of the countries with the highest rates of violence against youth, women, and the LGBTQIA+ population.³⁰

4.26 AIA has also consistently welcomed the Australian Government's ongoing commitment to resettle Palestinian refugees, who are outside the UNRWA region. UNHCR has again highlighted a

²⁷ Above, n1.

²⁸ Department of Home Affairs, 'Australia's Offshore Humanitarian Program: 2020–21,' 2021, pg. 19, available at <https://www.homeaffairs.gov.au/research-and-stats/files/australia-offshore-humanitarian-program-2020-21.pdf>.

²⁹ Ibid.

³⁰ Above, n1.

small number of Palestinian cases, for instance in Iraq and both Indonesia and Malaysia. AIA would again welcome a commitment from the Australian Government in regards to these groups.

Recommendation 9: AIA recommends that the Australian Government urgently process the backlog of resettlement referrals made by UNHCR on behalf of refugees in the Africa region. Moving forward, AIA recommends the Australian Government gives a greater focus to this region in relation to resettlement.

Recommendation 10: AIA recommends that the Australian Government continues to prioritise groups of concern through the Humanitarian Program, including UAMs and LGBTQIA+ refugees.

The Special Humanitarian Program and the Principle of Non-Discrimination

4.27 AIA has consistently maintained our support for the Special Humanitarian Program (SHP), both as a way for communities to reunite as well as for the flexibility it provides the Australian Government to resettle groups (and individuals) who are unable to access UNHCR but are still in need of protection.

4.28 However, AIA has raised concerns that the SHP has simply become a de-facto family reunion program that does not necessarily prioritise protection needs. AIA is aware that RCOA has gone into further detail on approaches to family reunion (which are supported by AIA) so we will not go into further detail here. But it is crucial the Australian Government clearly articulates what the purpose of the SHP is and how it differs from other elements of the program.

4.29 Furthermore, AIA takes issue with the way the SHP has facilitated a move away from UNHCR prioritised referrals and the way it has distorted Australia's stated non-discriminatory approach to migration, as noted in AIA's submission to the Shergold Inquiry:

"While AIA maintains strong support for the SHP, it is of primary concern that the placements given to SHP applicants are being prioritised (on the basis of family links and more recently at the expense of the UNHCR sub-class 200 visa) over a number of highly vulnerable UNHCR referred refugees, which in turn is altering the nature of Australia's offshore humanitarian intake. Furthermore, the SHP has been criticised for inadvertently allowing a preferential treatment for applicants of particular religions and ethnicities."

4.30 As noted in the DHA Discussion Paper, the Middle East, Africa and Asia have remained priority regions in recent years, and statistics provided by the DHA highlight that in 2020-21, the vast majority of visas granted through the offshore humanitarian program went to refugees from Iraq, Syria, Afghanistan and Myanmar.³¹

4.31 Despite this, the DHA also revealed that in 2020-21, 59.9 per cent of all grants were to persons identifying as Christian, 23.6 per cent to persons identifying as Islamic, 10.3 per cent to applicants self-identifying other religions and 5.9 per cent identifying as Buddhist.³²

³¹ Above, n27.

³²Ibid, pg.23.

4.32 While certainly not denying the protection needs of minority groups, AIA believes this is clearly disproportionate to the overall breakdown and needs of a self-described priority region, and represents a shift from the previous government to prioritise SHP arrivals over refugees referred through UNHCR.³³

4.33 In turn, this has impacted UNHCR's ability to refer highly vulnerable Muslim refugees more broadly, and Muslim men, specifically, out of the Middle East. Thus, a significant proportion of those in need of resettlement has been severely compromised.

4.34 Historically, resettlement countries have been reticent to publish the religious breakdowns of their programs to avoid host countries accusing them of a 'discriminatory approach'. Previously host countries have threatened to halt resettlement programs due to perceptions they were biased to certain groups and not based on humanitarian needs. UNHCR has also previously taken a principled stand and has rejected offers of resettlement from countries that want to focus on one religious group only. As such, it is surprising that the previous Australian Government would go to such lengths to demonstrate the religious bias of its current program.

Recommendation 11: AIA recommends that the Australian Government prioritises UNHCR resettlement referrals and takes a flexible and non-discriminatory approach to resettlement, ensuring resettlement is granted to those with the greatest protection need regardless of religion, country of origin, gender or other status.

Alternative Pathways: the Community Sponsorship Program & the Community Refugee Integration and Settlement Pilot

4.35 Amnesty International globally has been a strong supporter of community sponsorship and our colleagues in countries such as Ireland, Germany and Argentina have been at the forefront of civil society and government efforts to introduce these programs.

4.36 Through AIA's *My New Neighbour* campaign, and as a former member of CRSI (now CRSA), AIA has consistently called for a fair and accessible community sponsorship scheme to enable broader participation from families, groups, communities and businesses.³⁴

4.37 A functional private sponsorship scheme would enable the wider Australian community to take a practical and meaningful role in helping with the settlement of humanitarian migrants and will deliver a wide range of benefits to newcomers as well as the Australian community more broadly. Our experience to date in Australia, combined with data from overseas programs, indicate that such approaches would:

1. Support and fast-track the full social and economic participation of newcomers to Australia;
2. Support the settlement of newcomers in a wider range of Australian communities, including regional communities;

³³ Refugee Council of Australia, 'Less than One Third of Refugees in Australia's Humanitarian Program are Resettled from UNHCR,' 2020, available at <https://www.refugeecouncil.org.au/less-one-third-refugees-australias-humanitarian-program-resettled-unhcr/>.

³⁴ Amnesty International, 'Review of Australia's Community Sponsorship Program,' 2020, available at https://www.amnesty.org.au/wp-content/uploads/2020/11/Amnesty-submission_Community-Support-Program-review_Oct-2020.pdf.

3. Support the development of English proficiency of refugee newcomers;
4. Enrich the personal wellbeing and capacity of individual Australians, by providing a satisfying and meaningful way to connect with others in a purposeful shared endeavour;
5. Enrich civic life and foster social cohesion in Australian communities;
6. Expand the number of refugees who have the opportunity to rebuild their lives in safety and in doing so make a contribution to the Australian community; and
7. Ensure that the Australian public is aware of and remains supportive of Australia's successful and long-standing humanitarian migration program.

4.38 Thus, AIA welcomed changes announced to Australia's Community Sponsorship Program (CSP) towards the end of 2021 that dramatically reduced the cost and bureaucratic burden for those wanting to sponsor refugees and welcome them into their communities.

4.39 Beyond this, Australia now has two other potential mechanisms for a citizen or permanent resident to sponsor a refugee (or individual in need of protection); the above-mentioned SHP; and the 'unnamed' Community Refugee Integration and Settlement Pilot (CRISP).

4.40 As highlighted above, it is again necessary for Australia to clearly articulate the importance and purpose of the Humanitarian Program more broadly, while also specifically clarifying the purpose and rationale for each of these sponsorship programs. This includes clarifying how and why they differ, as well as why someone should engage in one or the other.

4.41 However, and in line with previous recommendations in this submission concerning non-discrimination, the Australian Government must eliminate any non-protection related criteria such as employment status, age, country of origin and English language proficiency from the CSP.

4.42 As the 'named' sponsorship program, like the SHP, it also runs the risk of again becoming a de-facto family reunion program, although with additional costs and without the support provided to those coming under the SHP. Consideration needs to be given as to how this scheme can include broader members of civil society (as per the Canadian system) to lessen the burden (including financial) on refugee sponsors and ensure the broader benefits to the Australian community.

4.43 AIA strongly welcomed the introduction of the 'unnamed' CRISP by the Australian Government in 2022. The CRISP has the benefit of ensuring that refugees sponsored are those in the greatest need of resettlement (as identified by UNHCR) as well as enabling the broader community to play a leading role in sponsoring and supporting newly arrived refugees.

4.44 However, AIA remains concerned that places under both the CSP and CRISP are still being included in Australia's already historically low humanitarian intake. This lack of 'additionality' inhibits many members of the Australian community from engaging with these programs and could inhibit the growth in these programs in the future.

4.45 Furthermore, AIA notes that there is currently only a limited number of visas available through the CSP and CRISP, which further limits community participation.

4.46 AIA commends the current Australian Government's commitment, as found in the Australian Labor Party's 2021 Policy Platform and in recent statements made by the Minister at his annual Community Consultations, to progressively increase the community sponsored refugee program to

5,000 places per annum, in addition to the traditional government-funded humanitarian intake, and calls on the Australian Government to introduce these measures as soon as practicably possible.³⁵

Recommendation 12: AIA recommends that the Australian Government further reform Australia's Community Sponsorship Program so that it is in addition to Australia's regular Humanitarian Program.

Recommendation 13: AIA recommends that the number of places offered under the CSP and CRISP should be increased to a combined 5,000 places per annum, increasing to 10,000 places per annum within 5 years.

Recommendation 14: AIA recommends that the Australian Government eliminates any non-protection related criteria from the CSP, such as employment status, age, country of origin and English language proficiency.

³⁵ Australian Labor Party, '2021 National Platform,' 2021, pg. 123, available at <https://alp.org.au/media/2594/2021-alp-national-platform-final-endorsed-platform.pdf>.

5. Conclusion

As the situation within our region - particularly in Myanmar and Afghanistan - worsens, the Australian Government must not only urgently increase the Humanitarian Program to 30,000 places, but where appropriate ensure there is additionality for specific crisis, with a process to respond which is underpinned by the principle of non-discrimination.

While recent changes to Australia's approach to community sponsorship are welcomed, to ensure its continued success, further reform is needed to provide clarity and build trust and engagement with Australian communities. When Australians put their hands up, they don't expect the Australian Government to be putting theirs down. Thus, while the scope of the CSP and CRISP must be increased, it must also be in addition to Australia's regular program to ensure the Australian Government is not merely passing the buck on its responsibilities.

In doing this, the Australian Government can rebuild Australia's reputation as a leading resettlement country and help address the worsening global refugee crisis.