

**AMNESTY
INTERNATIONAL**



DEFENDING HUMAN RIGHTS

Submission to the Department of Home Affairs

Discussion Paper

Australia's Humanitarian Program 2023-24

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Submitted by

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Table of Contents

Table of Contents	2
About Amnesty International	3
1. Summary	4
2. Recommendations	6
3. The International Context	8
a) Regional Resettlement in Asia and the Pacific	
i) A Better Plan	
ii) Myanmar and Rohingya Refugees	
iii) Afghanistan	
4. The Humanitarian Program	13
a) Size and Composition of the Program	
b) TPV & SHEV Transition to Permanent Visas	
c) Specific Populations of Concern	
d) The Special Humanitarian Program and the Principle of Non-Discrimination	
e) Alternative Pathways: the Community Sponsorship Program & the Community Refugee Integration and Settlement Pilot	
5. Conclusion	20

About Amnesty International

Amnesty International is a global movement of more than 10 million people who take injustice personally. We are campaigning for a world where human rights are enjoyed by all.

We investigate and expose the facts, whenever and wherever abuses happen. We lobby governments as well as other powerful groups such as companies, making sure they keep their promises and respect international law. By telling the powerful stories of the people we work with, we mobilise millions of supporters around the world to campaign for change and to stand in the defence of activists on the frontline. We support people to claim their rights through education and training.

Our work protects and empowers people – from abolishing the death penalty to advancing sexual and reproductive rights, and from combating discrimination to defending refugees' and migrants' rights.

We help to bring torturers to justice, change oppressive laws, and free people who have been jailed just for voicing their opinion. We speak out for anyone and everyone whose freedom or dignity are under threat.

We are impartial and independent of any government, political persuasion or religious belief and do not receive funding from governments or political parties.

Amnesty International is a proud People Powered movement founded on the work of volunteers and activists all around the country. More than 500,000 Amnesty International supporters live in Australia.

1. Summary

1.1 Amnesty International Australia (AIA) welcomes the opportunity to make a submission to the Department of Home Affairs on Australia's 2023-24 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, Indonesia and 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 a visit to assess the situation facing Rohingya refugees in Cox's Bazaar in Bangladesh. Most recently, AIA has visited Jordan and Pakistan where, as well as meeting refugee populations, representatives have had the opportunity to engage with UNHCR, IOM and Australian Department of Home Affairs (DHA) officials.

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 Despite this, the previous Australian Government cut the Humanitarian Program to just 13,750 places annually (reduced from the 18,750 in 2019-20 program), while consistently referring to this figure as a 'ceiling' rather than a target or quota.² AIA has continually expressed disappointment at this reduction, calling for an increase in the program to at least 30,000 places annually in line with global needs. It's therefore noted with great disappointment that despite the current government's commitment to increasing the Program to 27,000 places, we've now witnessed two federal budgets with no increase or even a clear allocation of funding that would indicate an intent to do so.

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

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>

² AIA acknowledges that the reference to a ceiling was dropped from the last budget and welcomes this important development.

- 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
 - 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) AIA recommends that the Australian Government engage in regional diplomacy, including a more protection focused approach adopted by the Bali Process, to ensure those with valid documents are granted exit permits to enable resettlement.
- 3) the Humanitarian Program provides a targeted number of places for Rohingya refugees from Myanmar, taking a leading role in resettling Rohingya refugees out of Bangladesh;
- 4) 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;
- 5) the Australian Government commit to increasing the Offshore Humanitarian Program to 30,000 places per annum as a matter of urgency, with the vast majority being visa sub-class 200 (UNHCR referred) refugees;
- 6) the Australian Government de-link the onshore component of the Humanitarian Program from the offshore component;
- 7) within the humanitarian intake, the Australian Government include unallocated quotas that can thereby be used in a flexible way for urgent and emergency cases;
- 8) the Australian Government establish a uniform process that would facilitate additional emergency intakes when crises like those we are seeing now occur;
- 9) the Australian Government address the ineligibility criteria of RoS holders who have transitioned from TPV or SHEV visas regarding access to the CSP and HSP, while developing a separate process which would allow this to occur;
- 10) the Australian Government gives a greater focus to the Africa region in relation to its resettlement Program.
- 11) the Australian Government continues to prioritise groups of concern through the Humanitarian Program, including women, UAMs and LGBTQIA+ refugees;
- 12) 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;
- 13) 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;

- 14) 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
- 15) 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 Refugees and people seeking asylum face 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 global conflicts escalate, there are record numbers of people on the move - more than 100 million.³ 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% from 2022.⁴

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.⁵

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 2023.⁶

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.⁷

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.⁸

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 Aboven n1.

⁴ Ibid.

⁵ Ibid.

⁶ Ibid, pg.15.

⁷ 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>

⁸ Ibid, pg. 21.

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."⁹

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."¹⁰

3.16. These issues are further exacerbated when countries within the region deny refugees exit permits, despite them obtaining the necessary visas that would facilitate resettlement. This approach - rather than disincentivizing 'unlawful' entry - fails to acknowledge the reason people make these journey's to begin with, and leaves them in an indefinite limbo, something that must be addressed by the Australian Government.

3.17 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.

3.18 This recommendation is supported by calls from the UN High Commissioner for Refugees, Filippo Grandi, who stated at the 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

⁹ 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.

¹⁰ 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.¹¹ This sentiment was repeated in Grandi's most recent visit to Australia.¹²

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.

Recommendation 2: AIA recommends that the Australian Government engage in regional diplomacy, including a more protection focused approach adopted by the Bali Process,¹³ to ensure those with valid documents are granted exit permits to enable resettlement.

Myanmar and Rohingya Refugees

3.19 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.¹⁴

3.20 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.¹⁵

3.21 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

¹¹ 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>

¹² The Guardian, 'UN refugee chief condemns Australia's offshore detention regime and slogans like 'stop the boats,' 2023, available at, <https://www.theguardian.com/australia-news/2023/apr/22/slogans-like-stop-the-boats-do-nothing-to-tackle-the-asylum-seeker-challenge-un-refugee-chief-says>.

¹³ The Bali Process on People Smuggling, 'Trafficking in Persons and Related Transnational Crime' available at <https://www.baliprocess.net>.

¹⁴ 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/>.

¹⁵ OCHA, 'Humanitarian Update No. 17,' 2022, available at, bit.ly/3vo7qmP.

region.¹⁶ According to UNHCR, there are now more than 1,118,000 refugees and people seeking asylum from Myanmar in neighbouring countries, with a large concentration in Bangladesh and Thailand.¹⁷

3.22 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.

3.23 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.

3.24 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 3: 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

3.25 Nearly two years 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.

3.26 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.¹⁸

3.27 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.¹⁹ Despite this, there are many areas within Afghanistan where aid is failing to reach, disproportionately impacting ethnic minorities.²⁰

¹⁶ Above, n1, pg. 101.

¹⁷ UNHCR, 'Myanmar Emergency Update,' 2023, available at, <https://reporting.unhcr.org/document/4813>.

¹⁸ 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>.

¹⁹ United Nations News, 'Afghanistan: UN launches largest single country aid appeal ever,' available at <https://news.un.org/en/story/2022/01/1109492>

²⁰ UNHCR, 'UNHCR Afghanistan Delivery Summary April 2023,' available at <https://data.unhcr.org/en/documents/details/100816>.

3.28 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.²¹

3.29 These evicted families joined the already huge numbers of internally displaced Afghans, which total more than 2 million people.²² UNHCR also notes that there are now 2.4 million Afghan refugees and people seeking asylum who have entered Iran, Pakistan, Tajikistan, Uzbekistan, and Turkmenistan.²³ Despite these stark figures, UNHCR acknowledges that the actual number of refugees is likely higher because not all refugees are able to register themselves with the agency.

3.30 Further exacerbating the challenges facing refugees and people seeking asylum in these host countries are the cost-of-living pressures being felt globally, as noted by UNHCR:

*The economic situation has deteriorated, livelihoods and opportunities have dried up and the cost of living has increased dramatically. Inflation has increased the cost of rent and basic staples which, coupled with limited livelihood opportunities, has eroded purchasing power and severely impacted vulnerable populations' ability to afford basic goods and services.*²⁴

3.31 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.²⁵

3.32 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.

3.33 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, with a particular focus on ethnic minorities and women.²⁶

3.34 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.²⁷

3.35 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.

²¹ Above, n18.

²² UNHCR, 'Afghanistan Situation,' accessed May 2023, available at <https://reporting.unhcr.org/afghansituation>.

²³ Ibid.

²⁴ UNHCR, 'Regional Refugee Response Plan for Afghanistan Situation 2023,' 2023, available at <https://reporting.unhcr.org/document/4453>.

²⁵ 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>.

²⁶ Amnesty International, 'The Taliban's War on Women,' 2023, available at, https://www.amnesty.org.au/wp-content/uploads/2023/05/TALIBAN-WAR-ON-WOMEN_ICJ-AI-Afghanistan-Report.pdf.

²⁷ Above, n11.

Recommendation 4: 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.

4.3 While AIA recognises the sharp increase in the number of resettlement visas being granted in comparison to previous years, it's important to ground this recognition in relative terms. As highlighted previously, during 2020-21, Australia had one of its lowest intakes in 45 years, with only 4,558 offshore visas granted.²⁸ This is in stark contrast to countries like Canada, who have committed to a target of more than 50,000.

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 as a matter of urgency. With Complementary pathways additional to this quota.

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 among 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

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

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.²⁹

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.³⁰

4.12 While AIA supports such a measure, we also believe that the more recent crises in Myanmar, Ukraine, Afghanistan and Iran, 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, not to mention demand.

4.14 While the number of Ukrainians 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.

TPV & SHEV Transition to Permanent Visas

4.17 AIA is among many human rights and civil society organisations who have campaigned for the abolishment of Temporary Protection Visas since their inception, and have called for the end to an unnecessary, cruel, harmful policy which has undermined a cohesive Australian society.

4.18 In this regard, AIA expresses gratitude to the Australian Government for transitioning 19,000 refugees from temporary protection visas towards a pathway to permanency.

²⁹ 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>.

³⁰ Above, n1, pg. 21.

4.19 While AIA is relieved to see the happiness this brings after so many years for the more than 19,000 refugees for whom this announcement applies, we do note that despite Labor's policy platform stating that a Labor Government would commit to abolishing Temporary Protection Visas completely, the visa category remains. We trust in good faith that a resolution to this matter will come swiftly.

4.20 A more pressing concern relates to the roughly 9,000 people seeking asylum who were rejected under the flawed fast-track process, for whom this recent announcement is bitterly disappointing. Thousands of people rejected under this process, who have been living and working in Australia for more than a decade, now face further limbo and uncertainty, with many facing the very real prospect that they will be forcibly returned to the country from which they fled.

4.21 AIA is also concerned that those who have been granted a Resolution of Status Visa (RoS) will be ineligible to sponsor their families through the Community Support Program or the Special Humanitarian Program due to their classification as Unauthorised Maritime Arrivals.

4.22 To remedy this, AIA proposes the government consider adjusting any regulations that DHA may be interpreting as prohibiting RoS recipients from acting as sponsors. AIA has been informed that this might entail a clarification of Sub-regulation 202.211(2) (e) to ensure that RoS recipients do not continue to be classed as I/UMAs, that is a person mentioned in 2.07AM(5).

4.23 If such amendments are not made there will be a number of dire consequences including; once again exacerbating the mental health damage for those on RoS visas, caused by years of family separation while on TPVs and SHEVs; condemning thousands of women and children to indefinite limbo in hostile, often life threatening, environments; and undermining any possibility of successful settlement for RoS visa holders, who will need to continue to send money overseas to support family members indefinitely trapped there.

4.24 AIA does not believe that the stated intent of the Labor Party platform to abolish TPVs and SHEVs was to continue to keep refugees permanently classified as second class citizens in this country. We would welcome any initiative to ensure, at a minimum, all permanent residents have equal access to bring their family members to safety.

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

Recommendation 5: AIA recommends that the Australian Government commit to increasing the offshore Humanitarian Program to 30,000 places per annum as a matter of urgency, with the vast majority being visa sub-class 200 (UNHCR referred) refugees.

Recommendation 6: AIA recommends that the Australian Government de-link the onshore component of the Humanitarian Program from the offshore component.

Recommendation 7: 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 8: 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 9: AIA recommends the Australian Government address the ineligibility criteria of RoS holders who have transitioned from TPV or SHEV visas regarding family reunification, while developing a separate process which would allow this to occur.

Specific Populations of Concern

4.26 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).

4.27 AIA welcomes the focus on “vulnerable cohorts within refugee populations”³¹, (as identified in the DHA Discussion Paper for the 2023-24 Program) as one of the three areas of focus of Australia’s Program. What is not clear is how this focus relates to the other two key areas of focus (UNHCR referrals and applicants proposed by a close family member). Specifically, AIA is keen to understand how international NGOs, diaspora groups, LGBTQIA+ organisations etc, can highlight specific at-risk individuals in these vulnerable cohorts who do not fit within the other two priority groups. AIA would welcome further dialogue on where engagement can be targeted to ensure this “focus’ is best maximised for those refugees in acute need.

4.28 AIA has strongly supported the previous DHA 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.

4.29 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 660,000.³² Despite this, for 2021-22, just 7% of offshore grants were given to refugees from the Africa region.³³

4.30 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.³⁴

4.31 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

³¹ Discussion Paper Australia’s Humanitarian Program 2023-24, DHA, p3

³² Above, n1.

³³ Department of Home Affairs, ‘2021–22 Humanitarian Program Outcomes,’ available at, <https://www.homeaffairs.gov.au/research-and-stats/files/australia-offshore-humanitarian-program-2021-22-glance.pdf>

³⁴ 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 10: AIA recommends the Australian Government gives a greater focus to the Africa region in relation to its resettlement Program.

Recommendation 11: AIA recommends that the Australian Government continues to prioritise groups of concern through the Humanitarian Program, including women, UAMs and LGBTQIA+ refugees.

The Special Humanitarian Program and the Principle of Non-Discrimination

4.32 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.

4.33 However, AIA has raised concerns that the SHP has simply become a de-facto family reunion program that does not necessarily prioritise protection needs.

4.34 AIA has previously taken 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."

4.35 It is evident that the Middle East and Asia have remained priority regions in recent years, and statistics provided by the DHA highlight that in 2021-22, the vast majority of visas granted through the offshore humanitarian program went to refugees from Afghanistan, Iraq, Myanmar and Syria.³⁵ With the additional allocation for Afghan refugees, the Afghan cohort now represents approximately one third of the total humanitarian program.

4.36 The DHA revealed that in 2021-22, 59.9 percent of all grants were to persons identifying as Christian, 23.6 percent to persons identifying as Islamic, 10.3 percent to applicants self-identifying as other religions and 5.9 percent identifying as Buddhist.³⁶ AIA understands - no doubt in part due to the increased allocation for Afghan refugees - that the grant to those identifying as Christian is now at 37%, and we welcome the ongoing commitment to a non-discriminatory program based on protection needs.

³⁵ Above, n33.

³⁶ Ibid, pg.23.

4.37 However, noting the DHA 2023-24 Discussion Paper in relation to Afghan refugees, priority will be given to (among others) ... “ethnic minorities, LGBTQIA+ and other identified minority groups”.³⁷ While again this is welcomed, it is vital that a non-discriminatory approach (specifically in regards to religion) be taken in order to ensure protection for those most at risk.

Recommendation 12: 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

4.38 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.

4.39 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.³⁸

4.40 AIA also strongly supports the “Skilled Refugee Labour Agreement Pilot”, having worked closely with Talent Beyond Boundaries in the initial development of their skilled pathway model. Australia’s early engagement in the development of this pathway has been significant and the growing interest of business to engage (both here in Australia but also in other countries with similar pilots) demonstrates that this will be an important life saving protection pathway going forward.

4.41 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;
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.

³⁷ Discussion Paper 2023-24, DHA, p4-5

³⁸ 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.

4.42 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.

4.43 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).

4.44 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.

4.45 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.

4.46 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.

4.47 In this context, 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.

4.48 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.

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

4.50 AIA commends the 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.³⁹

Recommendation 13: 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.

³⁹ 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>.

Recommendation 14: 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 15: 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.

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 crises, with a process to respond which is underpinned by the principle of non-discrimination. AIA welcomes the government's commitment to grow the program to 27,000 and make community sponsorship additional, however we believe Australia can be even more ambitious, both with regards to numbers and also by taking a leadership role in addressing the refugee crisis in our region.

Further, 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.