

**AMNESTY  
INTERNATIONAL**



**DEFENDING HUMAN RIGHTS**

Submission to the Department of Treasury

2024-25 Pre-Budget submissions

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Submitted by  
**Amnesty International Australia**

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## **About Amnesty International**

Amnesty International is a global movement of more than 10 million people in over 160 countries - the world's biggest human rights organisation - who take injustice personally. We campaign 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 and we advocate for laws and policies that ensure peoples human rights are respected.

## 1. Summary

1.1 Amnesty International Australia (AIA) welcomes the opportunity to make a submission to the Treasury regarding Australia's 2024-25 budget priorities.

1.2 This submission has two focuses: the protection of refugees and people seeking asylum, primarily through an increase to the Refugee and Humanitarian Program; as well as Indigenous justice, particularly the overrepresentation of Indigenous children in the youth justice system. In addition to this, AIA's submission will end with a focus on foreign aid. In highlighting these areas, AIA endeavours to draw the Australian Government's attention to issues which require serious consideration in planning Federal Budget expenditure.

### ***Increasing the Refugee and Humanitarian Program***

1.3 Over several decades, 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 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 in 2023 a visit to assess the situation facing Rohingya refugees in Cox's Bazar, Bangladesh.

1.4 It is with this experience, supported by findings stated in UNHCR's *Projected Global Resettlement Needs 2024*, that AIA understands the current refugee crisis to be the largest the world has faced since the Second World War. For 2024 alone, UNHCR operations across the globe have estimated that more than 2.4 million refugees will be in need of resettlement, compared to just over 2 million in 2023.<sup>1</sup>

1.5 While AIA welcomes the Australian Government's announcement of an increase in the Humanitarian Program to 20,000 places per year during 2023<sup>2</sup>, we note that this figure assumes the additional, temporary 4,125 places per year for Afghans are ongoing. However, these are due to expire in June 2026.<sup>3</sup> The result of this is that in reality we've only seen an increase to the official program of approximately 2,125 places, totalling 15,875 places per year. We have been informed that the additional Afghan places will be rolled into the 20,000-person program, once the additional commitment expires. While this is undoubtedly a move in the right direction, it's important that the Australian Government clarifies what the Humanitarian Program level will be into the future, as well as recognising that regardless, this is still well below the Australian Government's own commitment of 27,000 places per year<sup>4</sup>, as well as AIA's recommendation of 40,000 places per year (30,000 under the government program and 10,000 under community sponsorship).

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<sup>1</sup> UNHCR, '2024 Projected Global Resettlement Needs,' 2023, pg. 12, available at, <https://reporting.unhcr.org/unhcr-projected-global-resettlement-needs-2024>

<sup>2</sup> Australian Government, 'Increase to the Humanitarian Program,' 2023, available at, <https://minister.homeaffairs.gov.au/AndrewGiles/Pages/increase-to-humanitarian-program-11082023.aspx>

<sup>3</sup> Refugee Council of Australia, 'Government listens to community pleas by adding 16,500 new places for Afghan refugees,' 2022, available at <https://www.refugeecouncil.org.au/government-listens-to-community-pleas-by-adding-16500-new-places-for-afghan-refugees/#:~:text=The%20additional%2016%2C500%20humanitarian%20places,humanitarian%20and%205%2C000%20family%20visas>).

<sup>4</sup> Australian Labor Party, 'Australian Labor Party National Forum,' 2023, pg. 138, available at, <https://www.alp.org.au/media/3569/2023-alp-national-platform.pdf>

## ***Indigenous Justice***

1.6 Aboriginal and Torres Strait Islander peoples are over-represented in many of the most unfavourable national statistics: imprisonment, death in custody, violence against women and children, suicide – the list goes on. To fully address these issues, federal and state and territory governments must recognise the intersection of multiple human rights violations and the underlying causes of colonisation and racism.

1.7 AIA welcomed the Labor Government’s First Nations justice package, committing \$69 million over four years to establish a National Justice Reinvestment Program to support up to 30 community-led justice reinvestment initiatives, with \$20 million per year committed to the program after the initial four years. The Government also committed \$12.5 million over four years for the establishment of a National Justice Reinvestment Unit to coordinate and support justice reinvestment initiatives at a national level. In the 2023-24 Budget, the Government committed an additional \$10 million over four years to support place-based justice reinvestment initiatives in Central Australia.

1.8 The establishment of real-time reporting of First Nations deaths in custody in June 2023 and a dedicated action plan to reduce domestic, sexual and family violence against Aboriginal and Torres Strait Islander women and children in August 2023 was welcomed by AIA.

1.9 AIA has advocated for funding these initiatives to help end the over-representation of First Nations people, particularly children, and for additional funding for Aboriginal legal services to increase their capacity to provide culturally appropriate assistance.

1.10 Despite these positive developments, the fact remains that Aboriginal children and adults have continued to suffer horrific abuses in the criminal justice system over the past year - from Aboriginal children attempting to commit suicide at juvenile detention centres to Aboriginal men dying in custody. The last financial year recorded the death of forty people in custody, one of the highest numbers of deaths in more than three decades.<sup>5</sup>

1.11 These figures once again revealed the lack of seriousness on the part of governments in preventing Aboriginal deaths in custody 30 years after the handing down of the report of the Royal Commission. The circumstances leading to the death of 16-year-old Cleveland Dodd at Unit 18, Casuarina Prison in Perth in October 2023 is a case in point. The investigation uncovered “significant failures” with prison officers watching movies when the teenager fatally self-harmed.<sup>6</sup>

1.12 In early 2023, the UN Subcommittee on the Prevention of Torture cancelled plans to resume a visit to Australia, suspended in 2022, after failing to secure guarantees of unrestricted access to all detention facilities. Its report on Australia, released in December, uncovered an “extraordinary

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<sup>5</sup> The highest number of Indigenous people have died in custody since 1980

<https://www.sbs.com.au/nitv/article/indigenous-advocates-call-for-change-after-21-deaths-in-custody-last-year/n58leo33>

<sup>6</sup> Prison officers watched movies and relaxed as 16-year-old Cleveland Dodd fatally self-harmed, minister says

<https://www.theguardian.com/australia-news/2023/nov/10/prison-officers-watched-movies-and-relaxed-as-16-year-old-cleveland-dodd-fatally-self-harmed-minister-says>

number of persons deprived of their liberty on remand” in Australia, making up to 70% of the prison population in some locations visited.<sup>7</sup>

1.13 Governments have consistently committed to Closing the Gap targets. However, the Commonwealth Closing the Gap Annual Report released in June 2023 revealed that only 4 of the 18 socio-economic targets are on track, with four actually going backwards.<sup>8</sup> Rates of incarceration of Aboriginal and Torres Strait Islander adults increased despite the target to reduce it by at least 15% by 2031.

1.14 With this noted, AIA’s submission will focus on:

### Refugees and People Seeking Asylum

1. The International Context
  - a. The Rohingya
  - b. Afghanistan
2. The Humanitarian Program
  - a. Size of the Program
  - b. Alternative Pathways: the Community Sponsorship Program & the Community Refugee Integration and Settlement Pilot

### Indigenous Justice

3. Overrepresentation of First Nations people in the criminal justice system
  - a. Justice Reinvestment Initiatives
  - b. Implementation of the Royal Commission into Aboriginal Death in Custody
  - c. Nation-Wide Implementation of OPCAT
4. Closing the Gap Targets

1.15 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; as well as implementing evidence-based, community-led initiatives that positively impact the lives of First Nations People.

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<sup>7</sup> UN anti-torture watchdog urges Australia to reduce ‘extraordinary’ number of prisoners on remand  
<https://www.theguardian.com/australia-news/2023/dec/21/un-anti-torture-watchdog-australia-custody-numbers-spit-hood-ban>

<sup>8</sup> Closing the Gap: just four targets on track with four going backwards in latest report  
<https://www.theguardian.com/australia-news/2023/jul/12/closing-the-gap-just-four-targets-on-track-with-four-going-backwards-in-latest-report>

## 2. Recommendations

AIA recommends that:

- 1) the Australian Government establish a targeted quota for Rohingya refugees, including taking a leading role in resettling Rohingya refugees out of Bangladesh;
- 2) 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, particularly those in Pakistan, as a matter of urgency;
- 3) the Australian Government commit to increasing the offshore Humanitarian Program to 30,000 places per annum in the 2024-25 Budget, with the vast majority being visa subclass 200 (UNHCR referred) refugees;
- 4) the Australian Government de-link the onshore component of the Humanitarian Program from the offshore component;
- 5) within the Humanitarian Program, the Australian Government include unallocated quotas that can thereby be used in a flexible way for urgent and emergency cases;
- 6) the Australian Government establish a uniform process that would facilitate additional emergency intakes when crises like those we are seeing now occur and transition Palestinians who have arrived in Australia since the conflict in Gaza to 786 Safe Haven visas;
- 7) 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 Refugee and Humanitarian Program;
- 8) the number of places offered under the CSP and CRISP be increased to a combined 10,000 places per annum;
- 9) the Government continues funding justice investment initiatives across the country and the national body to coordinate these initiatives. Given the grossly disproportionate incarceration rates of Aboriginal and Torres Strait Islander peoples, it is crucial that an Australian model of Justice Reinvestment centres on Aboriginal and Torres Strait Islander leadership and expertise at every level;
- 10) the Government provides resources for federal and all state and territory governments to fully implement the recommendations of the Royal Commission into Aboriginal Deaths in Custody;

- 11) the Government continues resourcing for consolidated real-time reporting of all deaths in custody at a national level and commits to systemic changes to ensure these tragedies are not repeated;
- 12) the Government commits to ensuring the implementation of OPCAT is adequately resourced across all jurisdictions as a matter of urgency.
- 13) the Government commits funding to existing and new initiatives to meet Closing the Gap targets, particularly in relation to the disproportionate rates of incarceration, suicide, violence against women and children, and removal of children into protection services.
- 14) the Australian Government increase funding for the Joint Response Plan for the Rohingya in Bangladesh, including funding upskill pilots that can assist the development of complementary pathways as well as committing to large-scale multi-year health funding.
- 15) the Australian Government continues to contribute funds proportional to the scale of the humanitarian need in Gaza and the West Bank.

## Increasing the Refugee and Humanitarian Program

### **3. The International Context**

3.1 As global conflicts escalate, there are record numbers of people on the move, more than ever within our own region.

*“Asia and the Pacific hosts 14.3 million displaced and stateless persons, including 6.8 million refugees, 233,300 asylum-seekers and 6,900 refugee returnees; 5 million internally displaced persons and 778,600 internally displaced returnees; and 2.5 million stateless persons, representing over half of the world’s stateless population.”<sup>9</sup>*

3.2 As noted by UNHCR, world resettlement needs now exceed 2.4 million people, an increase of 20% on the previous year.<sup>10</sup>

3.3 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.

3.4 In 2024, UNHCR will maintain its five priority situations and advocate for States to provide quotas to address the needs of refugees among these situations, which include the deteriorating situations in the Asia-Pacific region developing from Afghanistan and Myanmar.<sup>11</sup>

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<sup>9</sup> Above n.1, pg. 78.

<sup>10</sup> Ibid, pg. 12.

<sup>11</sup> Ibid, pg. 13.



## Rohingya Refugees

3.5 The situation for Myanmar's Rohingya minority has deteriorated dramatically since August 2017, when the military unleashed a brutal campaign of violence against the population living in the northern parts of Rakhine State, where the majority of Rohingya normally live. This campaign, launched in response to coordinated attacks on security posts by the armed group the Arakan Rohingya Salvation Army (ARSA), was unlawful and grossly disproportionate. Instead of attempting to bring the assailants to justice, it targeted the entire Rohingya population on the basis of their identity.

3.6 To date, nearly one million women, men and children have fled into neighbouring Bangladesh, where they have brought with them accounts of killings, torture, rape and burning of entire villages by the Myanmar security forces, often accompanied by local vigilantes. The UN has described the situation as a "textbook example of ethnic cleansing", while Amnesty International has concluded the military's actions amount to crimes against humanity.<sup>12</sup>

3.7 Ukhiya and Teknaf, the two areas or upazilas of Cox's Bazar, the south-eastern district of Bangladesh which shares a border with Myanmar, host the Rohingya in 34 refugee camps spread over about 27 square kilometres. While Bangladesh has not acceded to the 1951 Refugee Convention or its 1967 Protocol, the country has rightly been lauded by the international community for hosting the Rohingya. Yet while the role of the Bangladesh Government and people should not be underestimated, the reality remains that the situation of the Rohingya in Bangladesh is one that requires urgent attention.

3.8 The vast majority of Rohingya in Bangladesh are not formally recognised by Bangladesh as refugees, and are subjected to live in temporary shelters, unable to lawfully work, and have limited access to education. Their rights to freedom of movement, access to information and health are frequently violated. Dependent on aid, the Rohingya are subjected to harsh living conditions, and are extremely vulnerable to disease outbreaks such as diphtheria, acute watery diarrhoea, and most recently scabies. With reduced humanitarian services being provided, especially in the realms of water, hygiene, and sanitation, the camps are not a tenable option even in the short term. The risks of fire, violence, and natural disasters are also substantial. During 2023, the UN World Food Programme in Bangladesh was forced to slash monthly rations to Rohingyas from US\$12 to US\$10 and then to US\$8 (amounting to 27 cents a day) due to an acute funding shortfall, before reverting to US\$10.<sup>13</sup>

3.9 The prospect of relocation to a more dangerous and isolated "island" (Bazan Char)<sup>14</sup> and deteriorating living conditions in the camps have left some Rohingya demanding to be sent back to Myanmar without any protection measures in place back in their home country. These conditions also lead many Rohingya people to undertake dangerous journeys to other countries by land and

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<sup>12</sup> Amnesty International, "'We will destroy everything": Report of the detailed findings of the UN FFM,' June 27 2018, pg. 177-314, available at, <https://www.amnesty.org/en/documents/asa16/8630/2018/en/>.

<sup>13</sup> UN News, 'UN in Bangladesh announces devastating new round of rations cuts for Rohingya refugees,' 2023, available at, <https://news.un.org/en/story/2023/06/1137252/>.

<sup>14</sup> Human Rights Watch, 'An Island in the Middle of the Sea,' 2021, available at, <https://www.hrw.org/report/2021/06/07/island-jail-middle-sea/bangladeshs-relocation-rohingya-refugees-bhasan-char/>.

sea, including Thailand, Malaysia and Indonesia. Those who embark on these dangerous boat journeys often put their lives at great risk leading to hundreds of people stranded and hundreds losing their lives at sea.

3.10 In 2023, more than 3,572 Rohingya set out from Bangladesh and Myanmar via sea, with children accounting for more than 30%.<sup>15</sup> 225 Rohingya people have lost their lives on these journeys with many more remaining unaccounted for.<sup>16</sup>

*In the fourth quarter of 2023 alone, over 2000 Rohingya have arrived in Indonesia by boat, and more are anticipated to arrive in the weeks to come. Over 70 per cent of recent arrivals are women and children in desperate need of shelter, nutrition and protection.*<sup>17</sup>

3.11 The preferred outcome for the vast majority of Rohingya in Bangladesh is to return to their homes in Myanmar, but this needs to be voluntary, safe, dignified and sustainable. Until such a time when this can occur, there is a desire and a need for some people who are at extreme risk in the camps to pursue options for resettlement. While Bangladesh suspended resettlement in 2010, advocacy on behalf of the US has opened up multi-year resettlement opportunities and since 2022 Bangladesh have restarted resettlement for a small cohort who are at extreme risk. But as the door has opened, it's vital that the international community steps up and provides solutions.

3.12 While countries such as the US have committed to a minimum of 8,000 places each year, Australia ran a 50-person resettlement pilot for Rohingya from Bangladesh during 2022-23. In contrast, countries such as New Zealand ran a 150-person pilot and Canada ran a 1,000-person pilot during its second year of operation. The previous Australian Government's commitment to earmark 2,000 places within the Humanitarian Program for people from Myanmar has been previously welcomed. It was also welcome to see the Australian Government make a more formal resettlement commitment to increase resettlement for the Rohingya at the Global Refugee Forum in December 2023, however, while Australia is currently Chair of the CRCP, it was hoped that a specific figure would have been placed on this commitment.

3.13 While AIA strongly encourages the Australian Government to establish a formal quota for the Rohingya, it's important the Australian Government also consider changes to Australia's Skilled Refugee Labour Agreement pilot program, which can be used by endorsed Australian employers to sponsor an approved skilled overseas worker on a permanent or temporary basis.<sup>18</sup> This can and must be expanded with the Rohingya in mind, including by ensuring that programs such as these are in addition to Australia's Humanitarian Program and by considering exceptions, such as Canada has done, to recognise volunteer work which the Rohingya are already completing as sufficient to engage in these pathways.

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<sup>15</sup> Save the Children, 'More than 400 Rohingya children arrive by boat in Indonesia in past week as more refugees risk lives at sea,' available at, <https://www.savethechildren.org.au/media/media-releases/more-than-400-rohingya-children-arrive-by-boat-in>

<sup>16</sup> Ibid.

<sup>17</sup> <https://reliefweb.int/report/indonesia/rohingya-boat-arrival-response-aceh-indonesia-emergency-appeal-december-2023-june-2024>

<sup>18</sup> Department of Home Affairs, 'Skilled Migration Program,' accessed 18 January 2024, available at, <https://immi.homeaffairs.gov.au/what-we-do/skilled-migration-program/recent-changes/skilled-refugee-labour-agreement-pilot-program>

**Recommendation 1:** AIA recommends that the Australian Government establish a targeted quota for Rohingya refugees from Myanmar while taking a leading role in resettling Rohingya refugees out of the camps in Bangladesh.

## Afghanistan

3.14 Nearly three 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.

3.15 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.<sup>19</sup>

3.16 Within weeks of the Taliban taking power, reports began emerging of non-Pashtuns 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.<sup>20</sup>

3.17 UNHCR reported that as of the end of 2022, Iran and Pakistan alone were hosting more than 5.1 million Afghan refugees and Afghans in refugee-like situations.<sup>21</sup> 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.

3.19 AIA notes that within Australia's Humanitarian Program (and Family Reunion Program), 31,500 places over 4 years have been made available to refugees from Afghanistan, including 16,500 places in addition to the Humanitarian Program which was announced in the 2022-23 Federal Budget, a commitment that the current Australian Government has affirmed.<sup>22</sup>

3.20 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.

3.21 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.

3.22 This increased commitment would bring Australia more in line with comparable countries such as Canada, who have made 40,000 places available to people from Afghanistan, with the majority of these places in addition to Canada's regular resettlement quota. This is an approach supported

<sup>19</sup> 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>.

<sup>20</sup> UNHCR, 'External Update: Afghanistan Situation,' 2022, available at <https://reporting.unhcr.org/document/3944>.

<sup>21</sup> Above n.1, pg.81.

<sup>22</sup> 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>.

by UNHCR who has stated that responses to the crisis in Afghanistan should be in addition to existing commitments.<sup>23</sup>

3.23 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. This matter is even more urgent as Pakistan has initiated a program of detentions, deportations and widespread harassment of Afghan refugees. Since late last year, thousands of Afghan refugees have been used as political pawns to be returned to Taliban-ruled Afghanistan where their life and physical integrity could be at risk amidst an intensified crackdown on human rights and an ongoing humanitarian catastrophe.<sup>24</sup>

**Recommendation 2:** An additional 3,500 places be made available for Afghan refugees in addition to the places already set aside in the humanitarian intake, and existing applications, in particular those in Pakistan, 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 the offshore component of the 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 Refugee and Humanitarian Program and notes that during 2022-23 there was a substantial increase in the amount of grants made under the Humanitarian Program to over 15,000. However, AIA believes Australia has a responsibility to be doing much more. For comparison, during 2023 Canada processed over 60,000 applications.<sup>25</sup>

4.3 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 and size of the Humanitarian Program.

4.4 Thus, AIA believes that the Australian Government must commit to increasing the offshore component of the Humanitarian Program to 30,000 places in the upcoming 2024-25 Budget.

4.5 Beyond growing the program, one central reform needed is the delinking of the 'onshore' component of the Humanitarian Program from the 'offshore' component.

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<sup>23</sup> Above, n12.

<sup>24</sup> Amnesty International, 'Pakistan: Halt mass detentions and deportations of Afghan refugees,' 2023, available at, <https://www.amnesty.org/en/latest/news/2023/11/pakistan-halt-mass-detentions-and-deportations-of-afghan-refugees/>.

<sup>25</sup> Government of Canada, 'Asylum claims by year - 2023,' accessed 18 January 2024, available at, <https://www.canada.ca/en/immigration-refugees-citizenship/services/refugees/asylum-claims/asylum-claims-2023.html>

4.6 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 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.

4.7 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.

4.8 A 2019 study by Deloitte Access Economics found that by 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.<sup>26</sup>

4.9 In addition to expanding the Humanitarian Program, 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.<sup>27</sup>

4.10 While AIA supports such a measure, we also believe that the escalation in global conflicts, as well as Australia's response to them, calls for a more uniformed process in regard to the concept of additionality.

4.11 AIA commends the previous and current government's approach to assisting people seeking safety from Ukraine, however, it must be noted that the same approach was not taken to people from Afghanistan or the occupied Palestinian Territories.

4.12 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 four years, whereas Palestinians wishing to seek safety in Australia have been faced with the prospect of no support from the Australian Government on arrival.

4.13 It is highly commendable that Australia is providing a pathway to safety for Palestinians, but it's crucial that those arriving be provided with some level of support. Previously, various levels of support were given to Ukrainians who were on tourist visas who were ultimately provided a pathway to the temporary 786 Safe Haven visa. This highlights that support can be provided and we'd ask the Australian Government to consider a similar approach to recently arrived Palestinians.

4.14 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

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<sup>26</sup> 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>.

<sup>27</sup> Above, n1, pg. 14.

opposite. The aim however is to highlight the importance of non-discrimination in the application of these responses and corresponding programs.

4.15 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.

**Recommendation 3:** AIA recommends that the Australian Government commit to increasing the offshore Humanitarian Program to 30,000 places per annum in the 2024-25 Budget, with the vast majority being visa subclass 200 (UNHCR referred) refugees.

**Recommendation 4:** AIA recommends that the Australian Government de-link the onshore component of the Humanitarian Program from the offshore component.

**Recommendation 5:** AIA recommends that within the Humanitarian Program, the Australian Government include unallocated quotas that can thereby be used in a flexible way for urgent and emergency cases.

**Recommendation 6:** 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 and transition Palestinians who have arrived in Australia since the conflict in Gaza to 786 Safe Haven visas.

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

4.16 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.

4.17 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.<sup>28</sup>

4.18 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;

<sup>28</sup> 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](https://www.amnesty.org.au/wp-content/uploads/2020/11/Amnesty-submission_Community-Support-Program-review_Oct-2020.pdf).

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.

4.19 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.

4.20 Beyond this, Australia now has a number of other potential mechanisms for a citizen or permanent resident to sponsor a refugee (or individual in need of protection), including; the Special Humanitarian Program; and the 'unnamed' Community Refugee Integration and Settlement Pilot (CRISP).

4.21 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.

4.22 However, 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.

4.23 As the 'named' sponsorship program, like the Special Humanitarian Program, it also runs the risk of becoming a de-facto family reunion program, although with additional costs and without the support provided to those coming under the Special Humanitarian Program. 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 broader benefits to the Australian community.

4.24 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.

4.25 However, AIA remains concerned that places under both the CSP and CRISP are still being included in Australia's official Humanitarian Program. 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.

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

4.27 AIA commends the current Australian Government's commitment, as found in the Australian Labor Party's 2023 Policy Platform, to progressively increase the community-sponsored refugee program to 10,000 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.<sup>29</sup>

**Recommendation 8:** 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 9:** 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 10:** 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.

## Indigenous Justice

### **5. Overrepresentation of First Nations people in the criminal justice system**

#### **Justice reinvestment initiatives**

5.1 Justice reinvestment is led by the community, for the community. Instead of failed punitive approaches adopted by successive governments in the past, justice reinvestment is evidence-based. It embraces therapeutic and rehabilitative methods like diversion programs to reduce incarceration of Aboriginal and Torres Strait Islander Peoples, crime and recidivism by addressing the underlying causes of crime and incarceration and diverting them from the criminal justice system.

5.2 The 2022-23 Budget announced a \$99 million commitment over four years from 2022–23 to support improved justice outcomes for First Nations Peoples, including 30 community-led justice reinvestment initiatives and a national body to be delivered in partnership with Aboriginal and Torres Strait Islander communities, funding for Aboriginal and Torres Strait Islander Legal Services to ensure First Nations families can access timely and culturally appropriate legal assistance, and funding for the National Aboriginal and Torres Strait Islander Legal Services to support its

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<sup>29</sup> Above n.4.



contribution to law reform and policy development.<sup>30</sup> The 2023-23 Budget announced an additional \$10 million over four years to support place-based justice reinvestment initiatives in Central Australia.

5.3 AIA welcomed these Budget announcements as we have long called for supporting justice reinvestment initiatives to address the disproportionately high incarceration rate of Aboriginal and Torres Strait Islander Peoples.

5.4 Studies of Indigenous-directed expenditure in previous years have shown that ‘Public order and safety’ (the police, justice and carceral systems) is a significant category of government expenditure on Indigenous People.<sup>31</sup> AIA commends the Government for reinvesting those taxpayers’ dollars into preventive measures.

**Recommendation 11:** The Government must continue funding new and existing justice investment initiatives across the country and the national body to coordinate these initiatives.

Given the grossly disproportionate incarceration rates of Aboriginal and Torres Strait Islander peoples, it is crucial that an Australian model of Justice Reinvestment centres on Aboriginal and Torres Strait Islander leadership and expertise at every level.

### **Implementation of the Royal Commission into Aboriginal Deaths in Custody**

5.5 As of today, 558 Indigenous people have died in custody after more than 30 years of the Royal Commission into Aboriginal Deaths in Custody. In August 2023, the Government committed to establishing consolidated national real-time reporting of death in custody. The first month of 2024 has already recorded the first death of an Aboriginal man in custody.<sup>32</sup>

5.6 The Commission’s final report concluded Indigenous People had a higher rate of death in custody simply because of their disproportionate rate of incarceration. It also pointed out the underlying causes of “structural, systemic injustice to a disadvantaged minority rather than a propensity in this group to increased criminality’.

5.7 The 339 recommendations of the report included policy development and criminal justice matters and importantly noted the importance of including Aboriginal and Torres Strait Islander Peoples and their perspectives in all matters. Despite these findings, First Nations peoples in Australia continue to be among the most incarcerated people in the world.

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<sup>30</sup> Labor’s commitment to First Nations people, APH, available at <https://parliinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22library%2Fparty%2F8638543%22>

<sup>31</sup> Indigenous Expenditure Report, Productivity Commission, available at <https://www.pc.gov.au/ongoing/indigenous-expenditure-report>

<sup>32</sup> Deaths in custody in Australia <https://www.aic.gov.au/statistics/deaths-custody-australia>

5.8 Since the release of the final report, progress to fully implement the recommendations has been slow and far from satisfactory. Many of them remain unimplemented or only partially implemented.

**Recommendation 12:** The Government provides resources for the full implementation of the recommendations of the Royal Commission into Aboriginal Deaths in Custody.

The Government continues its resourcing for consolidated real-time reporting of all deaths in custody at a national level and commits to systemic changes to ensure these tragedies are not repeated.

### **Nation-wide implementation of OPCAT**

5.9 On 20 January 2023, Australia missed its twice-extended deadline to meet its international obligations under OPCAT to establish a National Preventive Mechanism (NPM) or bodies to monitor conditions and prevent torture in places of detention.<sup>33</sup> Australia's three biggest states - NSW, Victoria and Queensland - have failed to establish NPMs, noting they cannot fulfil their obligations without federal government funding.<sup>34</sup>

5.10 In October 2022, the UN Subcommittee on the Prevention of Torture suspended its trip to Australia after the New South Wales and Queensland governments blocked visiting officials from accessing their prisons and mental health facilities. Australia ratified OPCAT in 2017 in the wake of the Royal Commission into the Protection and Detention of Children in the Northern Territory, sparked by the revelation of abuses suffered by Aboriginal children. A year later, the UN watchdog cancelled its plan to resume the visit.

**Recommendation 13:** The Government must commit to ensuring the implementation of OPCAT is adequately resourced across all jurisdictions as a matter of urgency.

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<sup>33</sup> Australia misses another deadline to implement international anti-torture treaty, available at <https://www.abc.net.au/news/2023-01-20/australia-misses-deadline-to-implement-anti-torture-agreement/101874602>

<sup>34</sup> Ibid

## Closing the Gap targets

5.11 The National Agreement contains justice targets to reduce the rate of Aboriginal and Torres Strait Islander adults held in incarceration by at least 15 per cent by 2031 and reduce the rate of Aboriginal and Torres Strait Islander young people (10-17 years) in detention by at least 30 per cent by 2031.<sup>35</sup>

5.12 Under the National Agreement, governments have committed to meeting the family violence target to reduce the rate of all forms of family violence and abuse against Aboriginal and Torres Strait Islander women and children by at least 50% by 2031. Governments have committed to bringing a significant and sustained reduction in the suicide of Aboriginal and Torres Strait Islander people towards zero.<sup>36</sup>

5.13 The Closing the Gap Annual Report 2023 showed key targets are worsening, including rates of incarceration of Aboriginal adults and children, suicide and removal of children into out-of-home care.<sup>37</sup>

5.14 Only four of the 19 targets are on track, while four have deteriorated. The targets not on track and worsening include Target 4 (By 2031, increase the proportion of Aboriginal and Torres Strait Islander children assessed as developmentally on track in all five domains of the Australian Early Development Census to 55 per cent, Target 10 (By 2031, reduce the rate of Aboriginal and Torres Strait Islander adults held in incarceration by at least 15 per cent), Target 12 (By 2031, reduce the rate of overrepresentation of Aboriginal and Torres Strait Islander children in out-of-home care by 45 per cent and Target 14 (Significant and sustained reduction in suicide of Aboriginal and Torres Strait Islander people towards zero).<sup>38</sup>

5.15 This sobering report card once again demonstrated how slow progress has been in improving the lives of Aboriginal children and adults despite commitments by successive governments to meet the Closing the Gap targets.

5.16 The 2024-25 Budget identified strengthening the Government's commitment to Closing the Gap as a top priority with significant investments in Indigenous health, education and justice.

**Recommendation 14:** The Government must commit funding to existing and new initiatives to meet Closing the Gap targets, particularly in relation to the disproportionate rates of incarceration, suicide, violence against women and children and removal of children into protection services.

<sup>35</sup> Closing the Gap targets and outcomes, available at <https://www.closingthegap.gov.au/national-agreement/targets>

<sup>36</sup> Ibid

<sup>37</sup> Closing the Gap annual data compilation report 2023

<https://www.indigenous.gov.au/news-and-media/announcements/closing-gap-annual-data-compilation-report-2023>

<sup>38</sup> Ibid

## Foreign Aid

### 6. Rohingya Refugees in Bangladesh

6.1 Since August 2017, Australia has provided \$860 million to people across Myanmar, and to Rohingya refugees and host communities in Bangladesh.<sup>39</sup> Across 2022-23 Australia provided \$145 million for life-saving food, water and shelter through partner organisations and at the Global Refugee Forum in December 2023 pledged an additional \$235 million to support displaced Rohingya and communities in need in Myanmar and Bangladesh.<sup>40</sup>

6.2 In this sense, Australia can be seen as a leader in this space and is a coordinating country for donor groups in Dhaka, Bangladesh. However, it remains the case that in 2023 the Joint Response Plan for the Rohingya in Bangladesh was less than 50% funded, with the prospects for 2024 not looking much better.

6.3 Issues around Australia's contribution to the Joint Response Plan stem in part because Australia's aid program for the Rohingya is spread across Bangladesh and Myanmar, with a clear split between humanitarian funding and development funding. While overall this package has increased, during 2023 there was a slight reduction in funds for the Joint Response Plan.

6.4 This is not to suggest that countries like Australia are not pulling their weight when it comes to support for the Rohingya but to simply highlight that the numbers may not be what they seem when assessing Australia's commitment to the Rohingya in Bangladesh.

6.5 Unfortunately, Australia's forward estimates regarding funding commitments and how these are split across the areas mentioned are not published. Regardless, Australia's commitments to date are welcomed and it's vital that those efforts are not only maintained but are further increased into the future with greater transparency around where funding is being directed.

**Recommendation 15:** AIA recommends that the Australian Government increase funding for the Joint Response Plan for the Rohingya in Bangladesh, including funding upskill pilots that can assist the development of complementary pathways as well as committing to large-scale multi-year health funding.

### 7. The Occupied Palestinian Territories

7.1 Amnesty International's research has highlighted how on 7 October Hamas and other armed groups from the occupied Gaza Strip launched indiscriminate rockets into Israel and sent fighters

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<sup>39</sup> Department of Foreign Affairs and Trade, 'Humanitarian support to Myanmar and Bangladesh,' Accessed 18th January 2024, available at, <https://www.dfat.gov.au/development/topics/development-issues/building-resilience/humanitarian-preparedness-and-response/humanitarian-support-myanmar-and-bangladesh>.

<sup>40</sup> Minister for Foreign Affairs, 'Enhanced support for refugees globally,' 2023, available at, <https://www.foreignminister.gov.au/minister/penny-wong/media-release/enhanced-support-refugees-globally>.

who committed grave violations of international law, such as summary killings of civilians and hostage taking, which amount to war crimes.

7.2 Amnesty International has also documented damning evidence of war crimes by Israeli forces in their ongoing Gaza offensive, including indiscriminate attacks and collective punishment, that have resulted in mass civilian casualties, wiped out entire families and destroyed residential neighbourhoods.<sup>41</sup> These violations must be investigated as war crimes.

7.3 Today, much of Gaza has been reduced to rubble, with street after street pulverised by bombardment. The crisis recently passed the 100-day mark, and the plight of the people of Gaza is becoming more desperate by the day. So far, more than 25,000 Palestinians have been killed<sup>42</sup> with most of the population of Gaza now displaced.<sup>43</sup> 2.2 million people are in crisis or worse levels of acute food insecurity.<sup>44</sup>

7.4 While AIA welcomes commitments to date by the Australian Government regarding humanitarian assistance to Gaza,<sup>45</sup> it remains woefully insufficient in the face of the ongoing carnage and extensive destruction wrought by the Israeli Government attacks.

**Recommendation 16:** In line with Australia's foreign aid and humanitarian sector,<sup>46</sup> AIA recommends that the Australian Government continues to contribute funds proportional to the scale of the humanitarian need in Gaza and the West Bank.

## 8. Conclusion

As the humanitarian situation worsens within our region as well as in the Middle East, the Australian Government must not only urgently increase the Humanitarian Program, but where appropriate ensure there is additionality for specific crises, with a process to respond which is underpinned by the principle of non-discrimination.

The Australian Government's commitment, as found in the Australian Labor Party's 2023 Policy Platform, to progressively increase the community-sponsored refugee program to 10,000 places

<sup>41</sup> Amnesty International, 'Damning evidence of war crimes as Israeli attacks wipe out entire families in Gaza,' October 20, 2023, available at,

<https://www.amnesty.org/en/latest/news/2023/10/damning-evidence-of-war-crimes-as-israeli-attacks-wipe-out-entire-families-in-gaza/>

<sup>42</sup> The Guardian, 'UN chief decries 'unacceptable' scale of Gaza deaths as 25,000 reported killed,' January 22, 2024, available at, <https://www.theguardian.com/world/2024/jan/21/gaza-death-toll-25000-un-antonio-guterres>

<sup>43</sup> Human Rights Watch, 'Most of Gaza's Population Remains Displaced and in Harm's Way,' December 20, 2023, available at, <https://www.hrw.org/news/2023/12/20/most-gazas-population-remains-displaced-and-harms-way>

<sup>44</sup> World Health Organization, 'Preventing famine and deadly disease outbreak in Gaza requires faster, safer aid access and more supply routes,' January 15, 2024, available at, <https://www.who.int/news/item/15-01-2024-preventing-famine-and-deadly-disease-outbreak-in-gaza-requires-faster--safer-aid-access-and-more-supply-routes>

<sup>45</sup> Minister for Foreign Affairs, 'Further humanitarian assistance to Occupied Palestinian Territories and the region,' January 16, 2024, available at, <https://www.foreignminister.gov.au/minister/penny-wong/media-release/further-humanitarian-assistance-occupied-palestinian-territories-and-region>

<sup>46</sup> Australian Council for International Development, 'ACFID calls for ceasefire, humanitarian access and funding, as Foreign Minister visits Middle East,' January 16, 2024, available at, <https://acfid.asn.au/acfid-welcomes-more-gaza-funding/>

per annum, is commendable. The Australian Government must now introduce these measures as soon as practicably possible.

The 2024-25 Federal Budget also provides an excellent opportunity to advance the Government's human rights agenda to help bring meaningful improvements in the lives of Aboriginal and Torres Straits Islander People. Importantly, the Budget must recognise the disproportionately high rates of incarceration and violence that First Nations peoples experience in Australia and the intersecting, layered forms of discrimination and disadvantage due to colonisation and systemic racism. The Australian Government must then invest in initiatives that address the drivers of these injustices and respect and utilise First Nations knowledge and agency.

On foreign aid, Australia can and must make a greater contribution towards addressing the great humanitarian crises of our times, whether it is for Rohingya refugees or the Occupied Palestinian Territories.

By enacting these recommendations, the Australian Government can become a true leader in addressing the injustices faced by First Nations Peoples while also restoring its reputation as an important player in addressing the global refugee and humanitarian crises.

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