

**AMNESTY
INTERNATIONAL**



DEFENDING HUMAN RIGHTS

Submission to the Department of Treasury
2026-27 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 Treasury regarding Australia's 2026-27 budget priorities. AIA aims in this submission to draw the Government's attention to issues which require serious consideration in planning Federal Budget expenditure. We raise three focus areas for consideration in the Budget:

- Protection of refugees and people seeking asylum in our region, primarily through an increase in the Refugee and Humanitarian Program.
- Overimprisonment and human rights abuses in youth detention of First Nations children.
- Australia's response to the climate crisis.

2. Recommendations

2.1 AIA recommends that the Australian Government:

1. Establish a quota for intake of Rohingya refugees from Cox's Bazaar, Bangladesh, and those in Myanmar suffering human rights abuses, commensurate with the size and capacity of Australia, in addition to the regular humanitarian program intake.
2. Take a leading role in establishing a regional strategy including more sustainable, durable supports for Rohingya refugees beyond mere humanitarian aid.
3. Provide 20,000 dedicated places in addition to Australia's humanitarian intake over four years for Afghan refugees from 2026 – and expedite outstanding applications by Afghans particularly those living in Iran or Pakistan and vulnerable to forced return.
4. Increase offshore Humanitarian Program places to 30,000 per annum in the 2026-27 Budget, with the vast majority being UNHCR-referred refugees.
5. Reconsider the vast expense of offshore and mandatory detention in the 2026-2027 Budget, and instead of funding policies that breach Australia's international legal obligations redirect funds to expanding our humanitarian intake.
7. Raise the age of criminal responsibility urgently across Australia to 14 years.
8. Immediately enact an enforceable prohibition on the use of solitary confinement.
9. Ban the use of practices on young people that breach international law; abusive, torturous, cruel or inhuman treatment - including spit hoods, mechanical restraints, and holding children in adult facilities and watch houses.
10. Invest in effective prevention and rehabilitation programs co-designed and delivered with First Nations People aimed at reducing the over-imprisonment of young people, and fund a Youth Justice Framework.
11. Introduce National, rights-based Minimum Standards for youth justice aligned with the UN Convention on Rights of the Child.
12. Commit to a fair, fast and funded phase out of fossil fuels – including prohibiting new projects and regulating import and exports.

13. End subsidies for the fossil fuel industry and support for “carbon capture and storage” schemes.
14. Raise revenue by forcing the fossil fuel industry to compensate for its contribution to climate change.
15. Increase funding for the transition to renewable energy with respect for human rights as a core principle of the transition.
16. Provide funding for communities to prepare and respond to the impacts of climate change, including community-led and Indigenous-led initiatives.
17. Commit funding for global mitigation, adaptation, and resilience, to meet Australia’s share of the global New Collective Quantified Goal as agreed at COP29, including funding adaptation and resilience measures in the Pacific Islands, and in Bangladesh in recognition of our regional responsibilities and the 1.5 million displaced people being sheltered there.

3. International Legal Human Rights Framework

3.1 Australia is a signatory to numerous international human rights treaties and protocols. Several of these are directly relevant to the information and recommendations in this submission:

- Convention on the Status of Refugees (Refugees Convention)
- UN Declaration on the Rights of Indigenous People (UNDRIP)
- Convention on the Rights of the Child (CROC)
- Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol to the Convention against Torture (OPCAT)
- International Covenant on Civil and Political Rights (ICCPR)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)

3.2 Many of Australia’s current policies and practices, particularly in regard to the over-incarceration of First Nations children, and treatment of refugees and people seeking asylum, are in direct breach its obligations under these treaties. AIA is deeply concerned about the derogation of Australia’s duties and advocates for these rights to be embedded in Australian federal law in a Human Rights Act.¹

3.3 Despite setting ambitious targets, Australia is further failing to ensure the protection of the rights of First Nations Peoples – the high rates of Indigenous adult and youth imprisonment alone are not in accordance with rights under the UNDRIP. Despite its commitments under this and the CROC, Australia continues to escalate the removal and incarceration of First Nations children, which is a strong risk factor for involvement in the youth justice system.

3.4 Australia’s *Migration Act 1958* fails to align with the protections envisaged in the Refugees Convention, and its treatment of refugees breaches other human rights treaties, particularly the most recent amendments made to the Act in late 2024² and the continued offshore

¹ Amnesty International Australia, A Human Rights Act for Australia, available at:

<https://www.amnesty.org.au/campaigns/human-rights-act/>

² Amnesty International Australia, 2 December 2024, ‘Labor’s new migration laws deliver a dangerous setback for rights of refugees and people seeking asylum’, available at <https://www.amnesty.org.au/migration-laws-deliver-dangerous-setback-for-rights-of-refugees-and-people-seeking-asylum/>

detention regime,³ the passing of the Anti-Fairness Act in 2025, and agreement reached by the government with Nauru to allow them to forcibly detain and deport people to Nauru.⁴

3.5 It is of grave concern to AIA, as the Australian branch of an international human rights organisation, that Australia's laws and practices are inconsistent with its obligations under international law and standards in a number of critical areas and with grave impact on peoples' lives. We urge the federal Government in this Budget to have proper regard for these responsibilities for the rights of all people in Australia, and ensure Budgetary priorities and expenditure align with policies and laws consistent with human rights obligations.

4. Protection of refugees and people seeking asylum

International situation for refugees

4.1 Over the last decade Amnesty's researchers have visited refugee camps in Indonesia, Jordan, and Thailand, as well as urban refugees in Kenya, Thailand, Indonesia, and Malaysia, and documented ongoing crises facing refugees across the Middle East, Africa and Europe. More recently in 2023 Amnesty International Australia visited Rohingya refugees to assess the situation faced in Cox's Bazar, Bangladesh. This experience, supported by findings in UNHCR's *Projected Global Resettlement Needs 2026*, informs Amnesty International Australia's view of the current refugee crisis.

4.2 UNHCR reports that world resettlement needs exceed 2.5 million people – a decrease from 2025 projections of 2.9 million, unprecedented since the Second World War – however, there is an increase in resettlement needs in the Asia and the Pacific region.⁵ The UNHCR report attributes this to the situation where some refugees have been able to return to Syria – but there are still over 440,000 Syrians in need of resettlement.⁶

4.3 However, the report notes that resettlement needs for Afghans — the largest refugee population in need of resettlement — as well as South Sudanese, Sudanese, Rohingya and Congolese refugees, have all increased.⁷ Asia is the region with the largest resettlement needs in 2026, at 807,000 people.⁸

4.4 Asia and the Pacific hosts 17.3 million forcibly displaced and stateless persons, including 7.2 million registered refugees, people in refugee-like situations and asylum-seekers, 6.9 million internally displaced persons and some 566,000 internally displaced returnees; 1.1 million others of concern; and 2.5 million stateless persons (representing over half of the world's stateless population) as of the end of 2024.

4.5 The majority of refugees, asylum-seekers and displaced people in Asia originate from Afghanistan or Myanmar, countries from which individuals have fled for decades seeking international protection.

³ Amnesty International Australia, 10 January 2025, Nauru detention centre must be urgently evacuated in light of UN ruling' available at <https://www.amnesty.org.au/nauru-detention-centre-must-be-urgently-evacuated-in-light-of-un-ruling/>

⁴ <https://www.amnesty.org.au/the-anti-fairness-bill/>, <https://www.amnesty.org.au/labors-secret-nauru-deal-a-concerning-precedent-for-back-door-deportations/>

⁵ UNHCR, Projected global resettlement needs 2026 report, at page 12, <https://www.unhcr.org/au/media/projected-global-resettlement-needs-2026>

⁶ Ibid

⁷ Ibid

⁸ Ibid at page 13

Rohingya refugees displaced in Cox's Bazaar and the need for action

- 4.6 The plight of the Rohingya people of Rakhine State, Myanmar is well-known to the Australian Government. They have suffered decades of systematic discrimination, statelessness and targeted violence. The UN described the 2017 escalation as textbook ethnic cleansing, and Amnesty International has concluded the military's actions amount to crimes against humanity.⁹ The International Criminal Court (ICC) is investigating atrocity crimes committed in Myanmar and Bangladesh, and provisional measures have been issued by the International Court of Justice as it hears a genocide case against Myanmar brought by The Gambia.¹⁰
- 4.7 Driven by violence, human rights abuses and persecution in Myanmar, Rohingyas have repeatedly been forcibly displaced. There are 5.6 million forcibly displaced and stateless persons in the region, including 1.1 million forcibly displaced and stateless Rohingya refugees who are being hosted in neighbouring countries, such as across the border in Bangladesh.¹¹
- 4.8 Bangladesh is not signatory to the Refugees Convention and the vast majority of Rohingyas there are not formally recognised as refugees. Over one million Rohingyas are hosted in Cox's Bazar – one of the poorest and most disaster-prone areas in Bangladesh. Rohingya refugees live in highly congested conditions and rely on humanitarian assistance for their essential needs, including protection, food, health, education, water and sanitation and shelter.¹² Humanitarian conditions in the camps are increasingly fragile, with 83% of refugee households highly vulnerable; food insecurity, little income or employment opportunities, and there are serious protection risks such as robbery, extortion, abduction for ransom, human trafficking, and forced recruitment (including of young people).¹³
- 4.9 Severe overcrowding and fragile shelters make cyclical monsoon rains, cyclones, fires and outbreak of disease life-threatening.¹⁴ Heavy rains can trigger landslides that threaten shelters. These harsh socio-economic conditions heighten Gender-Based Violence, and drive harmful practices such as child exploitation, labour and marriage.¹⁵ Humanitarian aid funding cuts have forced UNHCR and its partners to significantly reduce essential services in the camps such as education for children; health care services; shelter is scarce for new arrivals ;and conditions are declining.¹⁶ The Bangladesh government warned in September 2025 that the UN World Food Programme faces a critical funding shortfall, and monthly

⁹ 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/>

¹⁰ Amnesty International, 22 August 2025, '8 Years On: Accountability needed for Myanmar atrocities against Rohingya', at <https://www.amnesty.org/en/latest/news/2025/08/8-years-on-accountability-needed-for-myanmar-atrocities-against-rohingya/>

¹¹ UNHCR, above n 5, at page 48

¹² USA for UNHCR, 13 January 2026, Inside Cox's Bazar: Rohingya Refugees Face Growing Hardship in Bangladesh, at <https://www.unrefugees.org/news/2026/01-january/inside-cox-s-bazar-rohingya-refugees-face-growing-hardship-in-bangladesh/>

¹³ Humanitarian Action, Rohingya Joint Response Plan 2026, at <https://humanitarianaction.info/plan/1524/article/rohingya-joint-response-plan-jrp-1>

¹⁴ Ibid

¹⁵ Ibid

¹⁶ Save the Children, 'Number of Rohingya refugees leaving Bangladesh by boat tripled in first half of 2025, including at least 87 children', 15 Oct 2025, <https://www.savethechildren.net/news/number-rohingya-refugees-leaving-bangladesh-boat-tripled-first-half-2025-including-least-87>

rations for refugees may need to be halved, pushing Rohingya further into hunger and desperation.¹⁷

- 4.10 Humanitarian aid funding cuts have forced UNHCR and its partners to significantly reduce essential services in the camps such as education for children health care services; shelter is scarce for new arrivals; and conditions are declining.¹⁸ The Bangladesh government warned in September 2025 that the UN World Food Programme faces a critical funding shortfall, and monthly rations for refugees may need to be halved, pushing Rohingya further into hunger and desperation.¹⁹
- 4.11 The dire humanitarian situation also drives dangerous sea journeys, with an increasing rate of Rohingyas trying to flee. Between 2021 and 2023, there was a 441% increase in irregular movements out of the camps.²⁰ In the first half of 2025, the number of Rohingya refugees fleeing Bangladesh by boat tripled compared with the previous year, with about 1088 embarking on the dangerous journey. Overall in 2025, the UNHCR recorded 4,186 maritime departures mainly from Bangladesh or Myanmar and 562 Rohingya reported dead or missing.²¹
- 4.12 Since early 2024, escalating conflict, persecution and instability in Myanmar's Rakhine State have driven new displacement – with an estimated 130,000 Rohingya refugees arriving in 2025, and a further 35,000 expected in 2026. Regional efforts aim to allow repatriation²², however safe repatriation of all or even the majority of Rohingya has been found not a genuine possibility in the next decade.²³ The “root causes for their displacement are yet to be addressed” – namely ongoing civil war in Rakhine State²⁴ At the end of 2025, conditions in Myanmar remained un conducive for the safe return of the Rohingya to their homeland.²⁵
- 4.13 Médecins Sans Frontières (MSF) argues that the current continuing humanitarian aid system is not fit for purpose, and serves to perpetuate a dangerous situation for Rohingya refugees whereby they remain dependent on aid, and this results in negative health outcomes and violence. While there has been significant humanitarian aid, Australia cannot rely on this to address the crisis.²⁶ Rather than continuing small-scale resettlement programs, MSF calls on States to support a new five-year regional and global strategy

¹⁷ Muhammad Yunus cited in UN News, 29 September 2025, 'After mass exodus, limbo: Rohingya refugees test international resolve', at <https://news.un.org/en/story/2025/09/1165984>

¹⁸ Save the Children, 'Number of Rohingya refugees leaving Bangladesh by boat tripled in first half of 2025, including at least 87 children', 15 Oct 2025, <https://www.savethechildren.net/news/number-rohingya-refugees-leaving-bangladesh-boat-tripled-first-half-2025-including-least-87>

¹⁹ Muhammad Yunus cited in UN News, 29 September 2025, 'After mass exodus, limbo: Rohingya refugees test international resolve', at <https://news.un.org/en/story/2025/09/1165984>

²⁰ UNHCR, 23 January 2024, 'Urgent action needed to address dramatic rise in Rohingya deaths at sea', at <https://www.unhcr.org/news/briefing-notes/unhcr-urgent-action-needed-address-dramatic-rise-rohingya-deaths-sea>

²¹ UNHCR, Rohingya Refugee Maritime Movements Dashboard, 1/1/2025-31/12/2025, <https://data.unhcr.org/en/situations/myanmar>

²² 2024 Joint Response Plan Rohingya Humanitarian Crisis pg. 13, available at <https://rohingyaresponse.org>

²³ Ware, A., and Laoutides, C. (2024). 'The Rohingya repatriation myth: why repatriation from Bangladesh to Myanmar is (nigh) impossible', *Development in Practice*, 34(5), 633–640 available at: <https://doi.org/10.1080/09614524.2024.2338213>

²⁴ Arunn Jegan, Head of Mission for Médecins Sans Frontières in Bangladesh, 13 March 2024, 'A ring-fence around the Rohingya can't last – Australia's policy needs to change: Seven years on, a temporary aid agenda is only extenuating the problem', at: <https://www.lowyinstitute.org/the-interpreter/ring-fence-around-rohingya-can-t-last-australia-s-policy-needs-change>

²⁵ Humanitarian Action, Rohingya (Joint Response Plan) 2026, at <https://humanitarianaction.info/plan/1524/article/rohingya-joint-response-plan-jrp-1>

²⁶ Arunn Jegan, MSF, above n24.

which addresses the Rohingya crisis, encouraging Australia to take a leadership role in opening new pathways and durable solutions to alleviate the suffering of the Rohingya and to support their empowerment. This could include more sustainable solutions in Bangladesh, as well as scaling-up and fast-tracking resettlement programs to the United States, Canada and Australia.²⁷

- 4.14 MSF is of the view that is the role of countries such as Australia to work on the broader question of statelessness and to ensure accountability for its foreign policy and aid agenda.²⁸ Amnesty International Australia supports this position. The Rohingya need long-term, durable solutions, including sustainable development assistance in a place of safety, and scaled up resettlement in third countries where they can resume their livelihoods, their culture and have a future for their children. Given our role in the region, Australia must step up as a leader in finding these solutions.

The impact of aid cuts

- 4.15 Since taking office in January 2025 US President Donald Trump has drastically cut foreign aid and dismantle the U.S. Agency for International Development, setting off a crippling global humanitarian aid crisis that has severely impacted refugees worldwide. As a direct result of the USAID freeze, access to necessary healthcare in the Rohingya refugee camps have been impacted, with 48 hospitals and health facilities shutting down or reducing services.²⁹
- 4.16 In March 2025 the World Food Programme (WFP) announcement of severe aid cuts, with plans to halve food rations to a mere \$6 a month for Rohingya refugees in Bangladesh - set to have a devastating impact on their lives at a time with resources already stretched to the limit.³⁰
- 4.17 In Bangladesh, 95% of Rohingya households depend on humanitarian assistance. Regional Director for Amnesty International South Asia said "The Rohingya community in Cox's Bazaar have little alternative but to rely on WFP aid. Their access to job opportunities is severely restricted by the Government of Bangladesh which has prohibited their movement outside of camps."³¹
- 4.18 The WFP cuts is expected to exacerbate the already severe malnutrition among Rohingya refugees, and put women and children - over 75% of the Rohingya refugee population - at increased risk. In 2025 almost half of Rohingya refugee children showed physical signs of malnutrition, the worst levels since 2017.³²
- 4.19 Al Jazeera reported at the end of 2025 that the aid cuts were having devastating impacts on children, forcing the closure of thousands of schools, with girls forced into

²⁷ Ibid

²⁸ Arunn Jegan, MSF, above n 24.

²⁹ The Guardian, 1 December 2025, No soap, no tents, no food: Rohingya families fight for survival as aid plummets', at <https://www.theguardian.com/global-development/2025/dec/01/bangladesh-rohingya-refugees-aid-health-funding-cuts-infants-malnutrition>

³⁰ Amnesty International, 13 March 2025, Bangladesh: International community must act to avoid devastating aid cuts for Rohingya refugees, at <https://www.amnesty.org/en/latest/news/2025/03/bangladesh-international-community-must-act-to-avoid-devastating-aid-cuts-for-rohingya-refugees/>

³¹ Ibid

³² Ibid

marriage, children as young as 10 pushed into hard labour, and some young girls coerced into prostitution.³³

4.20 Aid cuts on the ground in Cox's Bazar will impact on:

- Food insecurity
- Overcrowding and unsanitary living conditions
- Limited access to education
- Health and medical needs
- Restrictions on movement
- Insecurity and protection issues
- Uncertain future and Statelessness

4.21 Amnesty called on the Bangladesh Government to ratify the Refugee Convention, and allow access for Rohingya refugees to the labour market, "to ensure not just their survival but to help lift them out of cyclic despair and the damage caused by aid cuts."³⁴

4.22 Today, 30 January 2026, saw the EU announce the allocation of €63 million in humanitarian aid to help people affected by the ongoing conflict in Myanmar, as well as support Rohingya refugees living in neighbouring countries.³⁵ Of that, €23.4 million was reserved for Bangladesh to support the 1.2 million Rohingya refugees living there as well as the host communities, and will be used for life-saving measures, including food assistance and nutrition; maintenance of camp shelters and facilities; and essential services such as healthcare, emergency education, and access to water and sanitation.³⁶

4.23 While this is positive news, the Rohingya Humanitarian Crisis Joint Response Plan 2025-26 funding update reported mid-2025 that the funding shortfall was US\$592.6 million.³⁷ There remains a significant gap in the humanitarian crisis funding needed.

4.24 Amnesty welcomed the Australian Government's commitment to increase Rohingya resettlement at the 2023 Global Refugee Forum, but Australia still has not committed to a specific quota for intake as hoped. AIA strongly encourages the Australian Government to establish a formal quota for Rohingya refugees in this Budget, of at least 1,000 places. We also encourage Australia to commit to/lead a regional strategy to provide more long-term solutions.

Afghanistan situation and increasing resettlement need

4.25 Afghanistan has seen a deteriorating human rights and humanitarian situation and continuing instability. 3.2 million Afghans are internally displaced and more than 5 million Afghan refugees and people in refugee-like situations were being hosted by Iran and Pakistan alone.³⁸

³³ Al Jazeera, 18 December 2025, 'US aid cuts force Rohingya girls into marriage, children into hard labour', at <https://www.aljazeera.com/gallery/2025/12/18/us-aid-cuts-force-rohingya-girls-into-marriage-children-into-hard-labour>

³⁴ Ibid

³⁵ European Commission, 30 January 2026, 'EU allocates €63 million in response to the crisis in Myanmar and its impact on neighbouring countries', https://ec.europa.eu/commission/presscorner/detail/en/ip_26_271

³⁶ Ibid

³⁷ Bangladesh: Rohingya Humanitarian Crisis Joint Response Plan 2025-26 funding update as of 31 August 2025, <https://reliefweb.int/report/bangladesh/bangladesh-rohingya-humanitarian-crisis-joint-response-plan-2025-26-funding-update-31-august-2025>

³⁸ Ibid at page 49

- 4.26 The additional, temporary 4,125 places per year that were provided for Afghans are due to expire in June 2026.³⁹ Given the continuing worsening situation under the Taliban and the numbers of Afghan refugees in need of protection, AIA strongly advocates for further places to be set aside, additional to the Humanitarian Program, for Afghans.
- 4.27 Since the Taliban seized power in Afghanistan in August 2021, the people of Afghanistan have experienced worsening levels of human rights violations under the de facto authorities.⁴⁰ The Taliban continue committing human rights abuses and international law violations with absolute impunity. They have relentlessly suppressed freedom of expression leading to the ranking of Afghanistan in the top three worst states globally for freedom of the press.⁴¹
- 4.28 The Taliban use arbitrary arrests, enforced disappearances and unlawful detention against people perceived as political opponents, and torture, other ill-treatment and extrajudicial executions of detainees.⁴² The economy has been deeply affected - with UNDP finding about 85% of Afghans lived on less than one dollar a day.⁴³
- 4.29 More than half of the country's 23.7 million population needed urgent humanitarian aid and assistance, and of those, 12.4 million people were food insecure and 2.9 million experienced emergency levels of hunger.⁴⁴ 2.9 million children faced acute malnutrition in 2024, with 850,000 experiencing life-threatening malnutrition.

Human rights of women and girls in Afghanistan

- 4.30 The Taliban have created the world's most serious women's rights crisis⁴⁵. The United Nations Special Rapporteur on Afghanistan analysed the Taliban's gender-based system of subjugation, discrimination, segregation, disrespect for human dignity and exclusion of women and girls, finding that the severe deprivation of their fundamental rights to work, health, education and freedom of movement as devastating and long-lasting harm on the whole population, with increasing violence against those who resist.⁴⁶
- 4.31 The Special Rapporteur and the Working Group on discrimination against women and girls found that "the pattern of large-scale systematic violations of women's and girls' fundamental rights in Afghanistan, abetted by the Taliban's discriminatory and misogynist policies and harsh enforcement methods, constituted gender persecution and an institutionalised framework of gender apartheid."⁴⁷

³⁹ 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/>

⁴⁰ Amnesty International, The State of the World's Human Rights 2025, at page 70. <https://www.amnesty.org.au/wp-content/uploads/2025/04/The-State-of-the-Worlds-Human-Rights-Amnesty-International-Annual-Report-2025.pdf>

⁴¹ Ibid

⁴² Ibid

⁴³ UNDP 10 January 2024, 'Approximately 85 percent of Afghans live on less than one dollar a day,' available at <https://www.undp.org/stories/approximately-85-percent-afghans-live-less-one-dollar-day>

⁴⁴ Human Rights Watch, World Report 2025, Economic and Humanitarian Crises, <https://www.hrw.org/world-report/2025/country-chapters/afghanistan>

⁴⁵ Human Rights Watch, 11 August 2024, 'Afghanistan: Taliban Tighten Grip 3 Years into Rule', available at <https://www.hrw.org/news/2024/08/11/afghanistan-taliban-tighten-grip-3-years-rule>

⁴⁶ A/HRC/56/25: The phenomenon of an institutionalized system of discrimination, segregation, disrespect for human dignity and exclusion of women and girls - Report of the Special Rapporteur on the situation of human rights in Afghanistan, pg. 2, 5, 6, at <https://www.ohchr.org/en/documents/country-reports/ahrc5625-phenomenon-institutionalized-system-discrimination-segregation>

⁴⁷ Ibid p 2.

- 4.32 In 2025, women and girls in Afghanistan were found to face gender persecution, a crime against humanity, and increasingly deprived of the rights to freedom of expression, freedom of movement, as the Taliban continued expanding its draconian restrictions on women's and girls' rights.⁴⁸ They were banned from accessing high school or higher education - the only country in the world to do so⁴⁹ - access to healthcare, sporting activities and visiting public parks, and their rights to work were severely restricted, creating poverty crises for women-led households.⁵⁰ Restrictions on access to contraception violating women and girls' right to sexual and reproductive health⁵¹, and just 10% of women had access to basic health services.⁵²
- 4.33 In mid- 2025, the Taliban introduced a "vice and virtue law" to ban women's voices from being heard in public, and prevent women from using transport without a male chaperone or hijab.⁵³ This impede women from being able to travel for work or medical appointments.⁵⁴ The laws allowed for Taliban police "morality inspectors" to threaten and detain people for breaches and prosecute them in the Taliban's courts.⁵⁵
- 4.34 Amnesty International Australia commends the Australian government for joining with Germany, Canada and the Netherlands in late 2024 to initiate a case at the International Court of Justice against Afghanistan, alleging the Taliban's systematic gender-based discrimination and violence violates its obligations under the Convention on the Elimination of Discrimination against Women.⁵⁶

Persecution of ethnic minorities

- 4.35 The Shi'a Hazara community face systematic, targeted attacks and killings at places of worship, education and civilian locations. The Taliban continue to marginalise ethnic and religious groups, as well as women from political participation.⁵⁷ The Taliban intentionally deprived ethnic and religious minorities of humanitarian and development assistance, access to essential services and government jobs.⁵⁸
- 4.36 Religious discrimination is instituted via Taliban laws and decrees. Shi'a people are restricted from observing religious events Ashura and Nawroz, forbidden from teaching about Shi'a jurisprudence, and there were reports of the Taliban having forced Shi'a people to convert to the Sunni faction.⁵⁹

Afghan refugees globally

⁴⁸ Amnesty International, 21 May 2025, 'Afghanistan: Submission to the UN Committee on Elimination of Discrimination against Women, 91st session, 16 June-July 2025,' available at

<https://www.amnesty.org/en/documents/asa11/9406/2025/en/>

⁴⁹ Human Rights Watch, World Report 2025, Afghanistan, <https://www.hrw.org/world-report/2025/country-chapters/afghanistan>

⁵⁰ Ibid

⁵¹ United Nations Assistance Mission in Afghanistan cited in Amnesty International, above n 40, page 71

⁵² EU cited in Amnesty International, above n 40

⁵³ Amnesty International, above n 40

⁵⁴ Human Rights Watch, 'Afghanistan Events of 2024,' available at <https://www.hrw.org/world-report/2025/country-chapters/afghanistan>

⁵⁵ Ibid

⁵⁶ Human Rights Watch, above n 40.

⁵⁷ Ibid

⁵⁸ Afghan human rights organisation Rawadari, cited in Amnesty International, above n 40, page 72

⁵⁹ Ibid

- 4.37 The UNHCR says many Afghans face serious protection risks in Afghanistan due to the current human rights situation.⁶⁰ It lists Afghanistan as the country with the highest resettlement need by country of origin globally.⁶¹ As a result of the humanitarian crisis and draconian Taliban rule, Afghans are fleeing in large numbers⁶², creating one of the world's worst humanitarian crises.⁶³ Afghans make up one of the largest refugee populations globally, and there are critical funding shortfalls with only 24% per cent of the required \$478 million.⁶⁴
- 4.38 There are some 3.2 million Afghans internally displaced⁶⁵, and in neighboring countries almost 4.3 million registered Afghan refugees, asylum-seekers and Afghans living in refugee-like situations⁶⁶. At the same time, Pakistan and Iran have been carrying out mass returns of Afghans, affecting millions of people including highly vulnerable groups.⁶⁷ The UN estimates 50% of deportees from Pakistan, and 30% of those deported from Iran up to June 2025, were women and girls.⁶⁸
- 4.39 For 2026 the UNHCR projects that 573,465 Afghans will be in need of resettlement.⁶⁹ But resettlement of Afghan asylum seekers and refugees is slow and limited, and thousands who have fled the Taliban are left in limbo.⁷⁰ The Trump administration announcement in January 2026 that the US will freeze visa processing indefinitely for people from 75 countries including Afghanistan⁷¹ will devastate many hoping for resettlement, and put further pressure on host countries. Refugees International called the suspension of visas for Afghans - and the risk they may end up back in Afghanistan - "unconscionable".⁷²
- 4.40 In mid-January 2026 the Trump Administration also announced it would close a transit camp in Qatar which currently hosts over 1,000 Afghans for visa processing – at least 800 of these people are in the refugee pathway, with over half women – and residents would be removed to an unnamed third country.⁷³ The closure of Camp As-Sayliyah dismantles another pathway to the US for refugees waiting for resettlement.
- 4.41 Currently, another 180,000 people are waiting to come to the US under a special immigrant visa (SIV), and there are an estimated 65,000 refugees and 15,000 Afghans just waiting on family reunification⁷⁴. While the US hasn't officially ended the SIV program, Trump's successive executive orders including four announced immediately post-election in

⁶⁰ Human Rights Watch, above n 40.

⁶¹ UNHCR Projected Global Resettlement Needs 2026, above n 5 at page 13

⁶² Ibid

⁶³ Human Rights Watch, above n 41.

⁶⁴ UNHCR Operational Data Portal, Afghanistan Situation, <https://data.unhcr.org/en/situations/afghanistan>

⁶⁵ UNHCR Projected Global Resettlement Needs 2026, above n 5 at page 49

⁶⁶ Ibid

⁶⁷ As of November 2025, there were 4.4 million Afghans in Iran, and 2.03 million in Pakistan: UNHCR Operational Data Portal, Afghanistan Situation, <https://data.unhcr.org/en/situations/afghanistan>

⁶⁸ Amnesty International, 19 December 2025, Afghanistan: Forced returns to Taliban rule must end as latest figures reveal millions unlawfully deported in 2025, at <https://www.amnesty.org.au/afghanistan-forced-returns-to-taliban-rule-must-end-as-latest-figures-reveal-millions-unlawfully-deported-in-2025/>

⁶⁹ UNHCR Projected Global Resettlement Needs 2026, above n 5 at page 13

⁷⁰ Human Rights Watch, above n 40

⁷¹ The Guardian, 15 January 2026, The full list of 75 countries where Trump is suspending visa processing, <https://www.theguardian.com/us-news/2026/jan/14/full-list-75-countries-visa-processing-suspended>

⁷² Middle East Eye, 15 January 2026, 'Betrayal': US to close Qatar camp housing Afghans awaiting US resettlement, at <https://www.middleeasteye.net/news/us-close-qatar-camp-housing-afghans-awaiting-us-resettlement>

⁷³ Ibid

⁷⁴ Ibid

early 2025 have drastically slowed processing for tens of thousands of displaced applicants.⁷⁵

4.42 Since the 2021 Taliban takeover approximately 200,000 Afghans had arrived in the US⁷⁶, and previously 70,000 arrived between August and November 2021 for urgent humanitarian reasons as part of Operation Allies Welcome.⁷⁷ But in addition to the January 2025 executive orders pausing refugee processing and travel globally, as well humanitarian parole and foreign aid, in April 2025 the Trump Administration announced it would not renew temporary visas Afghans, impacting up to 10,000 people.⁷⁸ Secretary of Homeland Security Kristi Noem stated that Afghanistan had an “improved security situation and... stabilising economy” so there was no reason for people not to return.⁷⁹ The incontrovertible independent evidence says otherwise.

Australia's obligation to step up

4.43 The US Administration's recent announcement exacerbate further the desperate situation for Afghans trying to flee the Taliban regime, and highlight the need for Australia to do more. Amnesty International Australia commends the Australian Government for allocating 26,500 dedicated visa places available for Afghans in the Offshore Humanitarian Programs to 2026.⁸⁰ However, no further commitment has yet been made beyond this program ceasing this year.

4.44 Along with other organisations and the diaspora community⁸¹, Amnesty International Australia has consistently called for 20,000 additional places to be dedicated to Afghan refugees. We repeat this call for the 2026-27 Budget, and again emphasise the worsening human rights and increased urgency of the situation for Afghans, particularly for women and girls, ethnic and religious minorities. Visas for Afghan women at risk should be prioritised as part of this number, and they should be allowed to apply without having family connection to Australia, as is currently required for a humanitarian visa.

4.45 It is also vital that the 148,356 applications already made by Afghan nationals (as of October 2025) for protection and resettlement in Australia be prioritised and expedited. Due to the mass illegal deportation programs of Iran and Pakistan, who host the majority of Afghan refugees, and media reports of several European states negotiating with the de facto Taliban authorities to plan and facilitate the forcible return of Afghans,⁸² the urgency could not be greater.

⁷⁵ Ibid

⁷⁶ Afghanistan Analysts Network, 1 June 2025, 'From Welcoming Allies to Threats of Deportation: The changing status of Afghans in America', <https://www.afghanistan-analysts.org/en/reports/migration/from-welcoming-allies-to-threats-of-deportation-the-changing-status-of-afghans-in-america/>

⁷⁷ Department of Homeland Security, November 8, 2021, 'DHS Announces Fee Exemptions, Streamlined Processing for Afghan Nationals as They Resettle in the U.S.' at <https://www.dhs.gov/archive/news/2021/11/08/dhs-announces-fee-exemptions-streamlined-processing-afghan-nationals-they-resettle>

⁷⁸ Afghanistan Analysts Network, above n67

⁷⁹ Ibid

⁸⁰ Department of Home Affairs, Discussion Paper - 2025-26 Humanitarian Program, at

<https://www.homeaffairs.gov.au/reports-and-pubs/PDFs/2025-26-humanitarian-program-discussion-paper.pdf>

⁸¹ Refugee Council of Australia, 29 March 2022, 'Government listens to community pleas by adding 16,500 new places for Afghan refugees', at <https://www.refugeecouncil.org.au/government-listens-to-community-pleas-by-adding-16500-new-places-for-afghan-refugees/>

⁸² Germany, Austria and the EU. Cited in Amnesty International, 19 December 2025, above n 68

Raise the Refugee and Humanitarian Program

- 4.46 In the previous 2025-26 Budget, the Australian Government again retained the number of Humanitarian Program places set at 20,000 in 2023-24, despite its prior commitment to increase that number to 27,000.⁸³ This is very disappointing given the projected global refugee resettlement needs of 2.5 million people, the increasing urgent resettlement needs in our Asia-Pacific region, and Australia's strong economy and capacity to support more refugee places. By contrast, in 2024 Canada admitted 76,685 refugees and protected persons as permanent residents.⁸⁴ Canada's projected refugee admissions for 2026-28 are between 56,200 - 54,300.⁸⁵
- 4.47 In the context of a worsening global system with recent severe funding cuts in the humanitarian sector putting millions of refugee lives at risk⁸⁶, more than ever Australia's assistance is needed. In this 2026-27 Budget, Amnesty International Australia urges the Government to make good its prior commitment to increasing program numbers, and to consider an increase to 30,000 places, with the majority being UNHCR-approved refugees.
- 4.48 This would acknowledge the unprecedented number of refugees globally seeking protection, ensure equitable access to protection for those who need it most, and reflect Australia's ability to contribute to addressing the global crisis in refugee numbers.
- 4.49 We also note two central reforms required – firstly, to delink the 'onshore' component of the Humanitarian Program from the 'offshore' component to avoid the current situation where humanitarian visa grants to people in Australia pull capacity from offshore humanitarian places. Linking these programs is illogical and unnecessary and negatively impacts Australia's ability to provide protection to those owed protection here, while meeting its global responsibilities.
- 4.50 Secondly, it is essential that part of our humanitarian program remain unallocated, to allow flexibility for urgent and emergency cases. UNHCR calls unallocated quotas "a lifeline beyond borders" and designating unallocated quotas as a portion of states' resettlement quotas plays "an increasingly indispensable role" in global refugee resettlement efforts.⁸⁷ The Global Compact on Refugees asks States to set aside 10% of resettlement places as unallocated.⁸⁸
- 4.51 They offer greater flexibility to address urgent and emerging protection needs, and are vital for example for survivors of gender-based violence of LGBTIQ+ refugees, and offer more flexibility and faster decision-making in severe and immediate risk - such as those in prolonged detention or under threat of severe violence, survivors of gender-based violence facing further abuse - and provide access to refugees in locations with no or limited quotas.⁸⁹

⁸³ Australian Labor Party, August 2023, 'Australian Labor Party National Forum,' p 138, available at, <https://www.alp.org.au/media/3569/2023-alp-national-platform.pdf>

⁸⁴ Government of Canada, 2025 Annual Report to Parliament on Immigration, <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/annual-report-parliament-immigration-2025.html>

⁸⁵ Permanent Resident Admissions 2026 – 2028 in the category of 'Refugees, Protected Persons, Humanitarian and other', in Government of Canada, 2025 Annual Report to Parliament on Immigration

⁸⁶ UNHCR, Projected global resettlement needs 2026 report, at page 21

⁸⁷ Ibid at page 20

⁸⁸ Global compact on refugees 2018, 3.2 Resettlement, par 92, pg. 37, at: <https://globalcompactrefugees.org>

⁸⁹ Ibid

Treatment of refugees by Australia

- 4.52 Amnesty has long opposed Australia's policies of mandatory and offshore detention. They are cruel, inhumane and violate our obligations under international treaties we are signatory to, including the Refugee Convention and the ICCPR.
- 4.53 We have deep concerns about the new agreement with Nauru allowing for deportation of people from Australia to be held and processed there. We are concerned that there are no guarantees that their human rights will be protected. We note the landmark decision of the UN Human Rights Committee in January 2025 that found Australia remains legally responsible for the arbitrary detention and human rights of people it transfers to offshore places like Nauru.⁹⁰
- 4.54 This month in January 2026 the UN Committee Against Torture found that Australia failed to protect an asylum seeker from torture and ill-treatment during his detention over years in Manus Island Regional Processing Centre in Papua New Guinea (PNG) and later in mainland Australia, violating its international obligations under the Convention against Torture.⁹¹
- 4.55 While Australia argued that it did not exercise effective control over the PNG detention centre and that the host State had responsibility for day-to-day operations, the Committee rejected this and emphasised that Australia's funding, management and contracting of services the centre, and its policy decision to transfer asylum seekers there, were sufficient to establish jurisdiction under the Convention.⁹² It emphasised that State remain bound by the Convention wherever they exercise effective control over individuals, including through arrangements put in place beyond their borders.⁹³ It is clear that should human rights abuses occur on Nauru, Australia will be considered legally responsible for these, and that the Government is on notice.
- 4.56 In its December 2025 visit to Australia, the UN Working Group on Arbitrary Detention (WGAD) made preliminary findings about Australia's migration detention system. The Working Group said that Australia's mandatory detention of persons with an irregular visa status violates fundamental international human rights norms:
- "[T]he right to personal liberty is fundamental and extends to all persons, including migrants and asylum seekers, irrespective of their citizenship, nationality or migratory status. Any form of administrative detention in the context of migration must be applied as an exceptional measure of last resort, for the shortest period and only if justified by a legitimate purpose, such as documenting entry and recording claims or initial verification of identity if in doubt."
- 4.57 The Working Group also raised the new Third Country Resettlement Arrangement between Australia and Nauru with dismay. It noted recent Human Rights Committee decisions that found the conditions on Nauru violate Article 9 of the Covenant. The WGAD said Australia has obligations under international law to ensure people deported to Nauru

⁹⁰ Press releases 16 January 2025: UN ruling on Australia's responsibility for people transferred to Nauru, <https://www.unhcr.org/asia/news/press-releases/un-ruling-australia-s-responsibility-people-transferred-nauru>

⁹¹ UN Human Rights Office, 14 January 2026: 'Australia: Offshore and prolonged detention exposed Iranian asylum seeker to torture, UN committee finds', at <https://www.ohchr.org/en/press-releases/2026/01/australia-offshore-and-prolonged-detention-exposed-iranian-asylum-seeker>

⁹² Ibid

⁹³ Ibid

are afforded their human rights, particularly the right against arbitrary detention – and called on it to do so.⁹⁴

4.58 Amnesty International Australia calls on the government in its Budget deliberations to reconsider its vast expenditure on offshore detention, a system that breaches Australians international legal obligations, at a cost of up to \$7 billion under the new deal.

Recommendations

4.59 The Australian government must:

1. Establish a quota for intake of Rohingya refugees from Cox's Bazaar, Bangladesh, and those in Myanmar suffering human rights abuses, commensurate with the size and capacity of Australia, in addition to the regular humanitarian program intake.
2. Take a leading role in establishing a regional strategy including more sustainable, durable supports for Rohingya refugees beyond mere humanitarian aid.
3. Provide 20,000 dedicated places in addition to Australia's humanitarian intake over four years for Afghan refugees from 2026 – and expedite outstanding applications by Afghans particularly those living in Iran or Pakistan and vulnerable to forced return.
4. Increase offshore Humanitarian Program places to 30,000 per annum in the 2026-27 Budget, with the vast majority being UNHCR-referred refugees.
5. Reconsider the vast expense of offshore and mandatory detention in the 2026-2027 Budget, and instead of funding policies that breach Australia's international legal obligations redirect funds to expanding our humanitarian intake.

5. Overimprisonment and human rights abuses of First Nations Children

5.1 Amnesty International Australia welcomed the Government's 2025-26 investment of \$1.3 billion over 6 years for focus on economic empowerment, food security and health and wellbeing, and commitment to strengthen service delivery in remote First Nations communities in the Northern Territory.⁹⁵ We note the intention of Minister McCarthy and the Government to work with First Nations people, communities and organisations and other levels of government to address Closing the Gap outcomes that are not improving fast enough⁹⁶, and support this.

5.2 These investments build on the Government's First Nations justice package in 2022-23. Amnesty International Australia has advocated for funding 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

⁹⁴ Ibid

⁹⁵ National Indigenous Australians Agency, 25 March 2025, Budget 2025-26, <https://www.niaa.gov.au/news-and-media/budget-2025-26>

⁹⁶ Budget 2025-26: Delivering better outcomes for First Nations People: Minister's Statement, at <https://www.niaa.gov.au/sites/default/files/documents/2025-03/Budget%202025%E2%80%93Delivering-better-outcomes-First-Nations-people.pdf>

assistance. AIA supports evidence-based solutions of justice reinvestment, First Nations-led diversion programs and wrap around services. We urge the government to focus current Budget investments on initiatives effective in addressing over-imprisonment, as well as raise the age of criminal responsibility and end unlawful, cruel and inhumane practices in detention.

5.3 However despite the positive investments last Budget, First Nations people continue to suffer horrific abuses and shameful outcomes in the adult criminal and youth justice systems. Australia is failing to meet its international obligations on the treatment of children in the legal system. Harsh bail, sentencing, and low age of criminal responsibility laws have increased the overrepresentation of Aboriginal and Torres Strait Islander children.

5.4 Amnesty is concerned about detention of children in adult facilities, practices amounting to torture and other ill-treatment, and suspension of legal protections to enable these.²⁸ These practices disproportionately impact vulnerable children.²⁹ Australia continues to criminalise and detain children as young as 10, despite repeated calls from UN bodies to raise the minimum age of criminal responsibility to 14.

Closing the Gap targets worsening

5.5 The 2025 Commonwealth Closing the Gap report once again revealed critically that instead of improving towards targets set, outcomes for First Nations people are continuing to worsen in four key areas, including incarceration rates, children in out-of-home care, and suicide rates.⁹⁷

5.6 Aboriginal and Torres Strait Islander children experienced rising rates of out-of-home care, with children aged 5–9 and 10–14 years consistently subjected to the highest rates since 2019⁹⁸. Engagement with the child protection system is a risk factor for exposure to the juvenile justice system and adult incarceration.⁹⁹

5.7 This concerning report card once again demonstrated the slow progress in improving the lives of Aboriginal children and adults despite Government commitments to Close the Gap. 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.

5.8 Amnesty International Australia is deeply concerned about the trend of worsening outcomes, and the impacts on First Nations children, young people and communities. While we acknowledge the investment in the last Budget on this, it is clear that a different approach is needed, with evidence-based solutions to impact the problem.¹⁰⁰

Over-imprisonment statistics

5.9 First Nations Peoples remain significantly over-represented in prisons and the youth justice system with far higher rates of incarceration both for adults in prison and young people. Nationally the rate of imprisonment is increasing. In 2024 the rate of incarceration of

⁹⁷ Australian Government, Productivity Commission, 30 July 2025, *Closing the Gap Annual Data Compilation Report July 2025*, available at: <https://www.pc.gov.au/closing-the-gap-data/annual-data-report/2025/>

⁹⁸ Ibid, at p 30

⁹⁹ ALRC 2017 cited in Closing the Gap Annual Data Compilation Report July 2025, <https://www.pc.gov.au/closing-the-gap-data/annual-data-report/2025/>, at p 103

¹⁰⁰ WGAD, above n85 at page 4

Aboriginal and Torres Strait Islander adults was 15.6 times higher than for non-Indigenous adults, compared to 11 times higher in 2019 (the baseline year).¹⁰¹

- 5.10 First Nations young people made up more than half (56%) of all those in detention aged 10 and over.¹⁰² First Nations young people were 21 times as likely to be in detention than non-Indigenous young people in 2024.¹⁰³ First Nations young people experience detention at younger ages than non-Indigenous young people, with a higher number, rate, and rate ratio for those aged 10–13 and 14–17.¹⁰⁴
- 5.11 Australia’s overimprisonment of First Nations children has been widely criticised by human rights bodies and Children’s Commissioners, and noted with concern by the UN Subcommittee on the Prevention of Torture. It is clear that criminalisation and incarceration of children exacerbates the impacts of trauma and alienation that can lead to offending.¹⁰⁵
- 5.12 To fully address these issues, Amnesty calls on the federal government for leadership to the states and territories in recognising the intersection of multiple human rights violations and the underlying causes of colonisation and racism in government policies.
- 5.13 The UN Working Group on Arbitrary Detention in findings from its December 2025 visit to Australia, expressed “profound concern at the grossly disproportionate representation of First Nations peoples in the criminal justice system,” raising the proportion of First Nations people and particularly, First Nations children held in detention.¹⁰⁶
- 5.14 The Working Group noted the over 800 children in detention in Australia. It found that addressing the overimprisonment rate would require “fundamentally reorienting investment toward holistic early-intervention, prior to contact with the criminal justice system, along with preventive and restorative community-led solutions.”¹⁰⁷ It recommended investment in First Nations oriented, co-designed, and co-delivered programs.
- 5.15 The Working Group also criticised ‘adult time adult crime’ and ‘three-strikes’ laws, and said the harsh approaches in Queensland, WA, NT and other territories impacted particularly on First Nations youth, due to the legacy of discrimination and colonialism.¹⁰⁸ The Working Group strongly encouraged Australia to adopt a therapeutic approach to youth detention, focuses on rehabilitation and reducing recidivism – as opposed to the current carceral approach.¹⁰⁹

¹⁰¹ Closing the Gap Annual Data Compilation Report, July 2025, <https://www.pc.gov.au/closing-the-gap-data/annual-data-report/2025/> at p 104

¹⁰² Australian Institute of Health and Welfare, 10 December 2025, Youth detention population in Australia 2025: First Nations young people, at <https://www.aihw.gov.au/reports/youth-justice/youth-detention-population-in-australia-2025/contents/first-nations-young-people>

¹⁰³ Ibid – this is compared to 17 times as likely in 2021.

¹⁰⁴ Ibid

¹⁰⁵ Amnesty International Australia, 28 October 2024, ‘Adult crime adult time’ policy flies in the face of all evidence’, available at: <https://www.amnesty.org.au/queensland-1np-adult-crime-adult-time-policy-flies-in-the-face-of-all-evidence/>

¹⁰⁶ Working Group on Arbitrary Detention: Preliminary Findings from its visit to Australia (1 to 12 December 2025), <https://www.ohchr.org/sites/default/files/statements/20251212-eom-stm-australia-wg-arbitrary-detention-en.pdf> at p 4

¹⁰⁷ Ibid at p 5

¹⁰⁸ Ibid at p 8

¹⁰⁹ Ibid at p 7

Deaths in custody

- 5.16 In 2025 there were 35 Indigenous deaths in custody out of 124 total,¹¹⁰ meaning Indigenous people made up over 28% of deaths in prison, police custody and youth detention. This is despite Indigenous Australians consisting of approximately 3.8% of the total Australian population¹¹¹. These statistics have worsened on the previous year, with 11 additional Indigenous deaths in custody in 2025, and the overall rate of Indigenous compared with non-Indigenous deaths in custody increasing by over 3% from almost 25% in 2024. The Australian Institute of Criminology *Deaths in Custody 2024-25* report revealed the highest number of deaths in custody for Indigenous people since since 1979-80.¹¹²
- 5.17 The figures once again underscore the lack of seriousness of Australian government in preventing Aboriginal deaths in custody. 30 years after the report of the Royal Commission into Aboriginal Deaths in Custody (RCIADIC) was handed down, the worsening rate of deaths in custody year on year, and reaching the highest rate in 45 years, is an indictment on the inaction by governments at all levels.
- 5.18 The reintroduction of torturous practices in the Northern Territory, reduction in the age of criminal responsibility back to 10 years old, and changes to bail and harsh new sentencing laws in WA and Queensland have meant more children are being held on remand and sentenced. More children have been held in police watchhouses. Queensland has shocking statistics, consistently having high numbers of incarcerated young Indigenous people and very high rates of these young people unsentenced.¹¹³
- 5.19 2025 saw one death in youth detention.¹¹⁴ In 2025 the Inquest into the 2023 death of 16-year-old Cleveland Dodd in Unit 18 of Casuarina Prison, Western Australia, heard that for about 80 per cent of Cleveland's final three months in detention he was let out of in his cell for less than two hours a day - meeting the international definition of solitary confinement. The Coroner found that the treatment the child received, in particular extensive time in solitary, was "inhumane" and "reminiscent of 19th century jails".¹¹⁵ The Coroner recommended the urgent closure of the unit as it was unfit for purpose.

Use of solitary confinement

- 5.20 Across Australia, especially in Queensland¹¹⁶, children have faced prolonged solitary confinement, despite the prohibitions on the use of solitary confinement imposed by

¹¹⁰ Australian Institute of Criminology, Deaths in custody in Australia. Real-time dashboard: Cumulative total of Indigenous deaths in custody, 2025 and 2026; Cumulative total of non-Indigenous deaths in custody, 2025 and 2026, <https://www.aic.gov.au/statistics/deaths-custody-australia>

¹¹¹ Australian Bureau of Statistics 30 June 2021, Estimates of Aboriginal and Torres Strait Islander Australians: Final 2021 Census-based estimated resident population of Aboriginal and Torres Strait Islander and non-Indigenous Australians for various geographies

¹¹² SBS News, 11 December 2025, 'Profoundly distressing milestone': Indigenous deaths in custody highest in 45 years, <https://www.sbs.com.au/news/article/profoundly-distressing-milestone-highest-number-of-indigenous-deaths-in-custody-in-45-years/z7qfkzyti>

¹¹³ Ibid

¹¹⁴ Australian Institute of Criminology, Deaths in Custody in Australia 2024-25, https://www.aic.gov.au/sites/default/files/2025-12/sr57_deaths_in_custody_in_australia_2024-25.pdf

¹¹⁵ ABC News, 8 December 2025, 'Cleveland Dodd's care in Unit 18 'inhumane', coroner examining youth detention death finds', at <https://www.abc.net.au/news/2025-12-08/cleveland-dodds-care-in-youth-detention-inhumane-coroner-finds/106112004>

¹¹⁶ Queensland Ombudsman, 27 August 2024, 'Cleveland Youth Detention Centre inspection report: Focus on separation due to staff shortages', <https://www.ombudsman.qld.gov.au/publications/detention-inspectionreports/cleveland-youth-detention-centre-inspection-report-focus-on-separationdue-to-staff-shortages>

international law.¹¹⁷ While Australian jurisdictions tend not to use the term ‘solitary confinement’, similar practices are effectively permitted by law and policy - known as ‘separation’, ‘segregation’, ‘seclusion’ or ‘isolation’ – and children and young people are being subjected to solitary confinement or otherwise isolated in circumstances which may amount to cruel, degrading and inhuman treatment. Reports also reveal ongoing use of police cages in transfers.¹¹⁸ These practices are degrading for children and cause severe physical and psychological harm, and violate Australia’s obligations under the Convention Against Torture and the Nelson Mandela Rules.¹¹⁹

5.21 In December 2025 the AHRC published a review of solitary confinement in youth justice.¹²⁰ This comprehensive study sets out the international human rights law and standards that are breached through the use of solitary confinement of children in Australian states and territories, and reviews its use and regulation in youth detention centres and systems. It concludes that solitary confinement should be prohibited in Australia.

5.22 The report states that solitary confinement of children violates the principles of the dignity of children, and the prohibition of cruel, inhuman or degrading treatment, and international standards contained in the Mandela Rules expressly prohibit solitary confinement as a disciplinary measure for children, defining it as a form of ill-treatment.

5.23 The rules set out that solitary confinement may be used in exceptional circumstances and only as a last resort, where temporary isolation is deemed necessary for the safety of the child or others, for the shortest possible period and under strict supervision - subject to regular review and ensure access to basic care and rehabilitative and services. Unfortunately the solitary confinement practices used in Australian youth detention centres do not meet these standards.¹²¹

5.24 The AHRC notes that major UN bodies including the Office of the High Commissioner for Human Rights, the Committee Against Torture, and the Committee on the Rights of the Child, have criticised and raised serious concerns about Australia’s

¹¹⁷ Davis, Megan, and McGlade, Hannah, ‘International Convention on the Elimination of All Forms of Racial Discrimination – Early Warning and Urgent Action submission’, 31 March 2025, https://www.hrc.org.au/app/uploads/2025/04/United-Nations-CERD-complaint_youth-justice-in-Australia.pdf : “Despite the prohibitions on the use of solitary confinement imposed by international law, and three jurisdictions in Australia (the Australian Capital Territory, Victoria and Queensland) having human rights legislation, no jurisdiction in Australia prohibits solitary confinement. Concerningly, while Australian jurisdictions tend not to use the term ‘solitary confinement’, practices akin to solitary confinement are effectively permitted by law and policy in various guises: ‘separation’, ‘segregation’, ‘seclusion’ or ‘isolation’. While the laws governing the use of confinement on children and young people in prison vary across states and territories, they have proved insufficient to prevent children and young people from being subjected to solitary confinement or otherwise isolated in circumstances which may amount to cruel, degrading and inhuman treatment. They have also led to deaths in custody...”

¹¹⁸ ABC News, ‘Inquiries triggered after 11-year-old Indigenous boy placed into police wagon in the Northern Territory’, 21 September 2023,

<https://www.abc.net.au/news/2023-09-21/inquiries-after-indigenous-boy-11-put-in-nt-police-paddy-wagon/102884196>

¹¹⁹ Committee against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Concluding observations on the sixth periodic report of Australia 5 December 2022 (UN Doc CAT/C/AUS/CO/6) at p 11 (37(d)). See also, Davis, M. and McGlade, H., at 29(132): “The Nelson Mandela Rules and the Havana Rules strictly prohibit the use of solitary confinement on children and all disciplinary measures constituting cruel, inhuman or degrading treatment. The practice can cause immeasurable and lasting trauma to children, especially those with experiences of significant disadvantage and marginalization”.

¹²⁰ Australian Human Rights Commission, ‘Left Alone’: A Review of Solitary Confinement and Similar Practices in Australia’s Youth Justice Systems, December 2025, at [‘Left Alone’: A Review of Solitary Confinement and Similar Practices in Australia’s Youth Justice Systems | Australian Human Rights Commission](#)

¹²¹ Ibid

excessively subjecting to isolation.¹²² The CAT called on Australia to ‘[i]mmediately end the practice of solitary confinement for children across all jurisdictions’.¹²³ Given the over-imprisonment of First Nations children, and also the high proportion of these with a disability, First Nations children with disabilities are suffering greater impacts of the use of prolonged solitary confinement in breach of international law and standards.¹²⁴

5.25 There are currently no state or territory targets for young people’s representation in the criminal justice system.¹²⁵ Since the Closing the Gap baseline year 2018-19, rates of Indigenous young people in detention in Queensland, the ACT and the Northern Territory have increased – and the majority of young people in detention are unsentenced in all states and territories.¹²⁶

Use of practices that amount to torture, cruel or inhuman treatment

5.26 AIA has consistently said that Australia’s youth detention system breaches international human rights law, including the Convention on the Rights of the Child and Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT). In 2023 the UN Subcommittee on the Prevention of Torture issued its report on Australia, finding “severe overrepresentation of Aboriginal and Torres Strait Islander peoples in prisons and in police watch-houses”, with Indigenous people comprising approximately 28 per cent of the adult prison population of Australia. The Subcommittee noted that it:

“received frequent reports that overpolicing of Indigenous communities, profiling, discrimination and prejudice contributed to those disproportionate incarceration rates. The Subcommittee is concerned that policies to tackle criminality in Indigenous communities fail to take into account core contributing factors and lack a needs-based approach to crime prevention.... [and observed] that many Indigenous detainees interviewed had themselves been victims of physical or sexual violence.”

5.27 It recommended Australia review its policies relating to Indigenous communities in the criminal justice system and implement social and crime prevention schemes to reverse the overincarceration of members of Indigenous communities.¹²⁷

5.28 The Working Group noted practices including the use of spit hoods and restraint chairs on children in custody, raising serious human rights concerns, despite recommendations to prohibit them. It said an immediate legislative ban on spit hoods and restraint chairs was needed.¹²⁸ The Working Group called on Australia to ban the practice of holding children in adult facilities, urgently adopt a nationally consistent, enforceable prohibition on the solitary confinement of children, and withdraw its reservation under Article 37(c) of the Convention on the Rights of the Child.¹²⁹

¹²² [‘Left Alone’: A Review of Solitary Confinement and Similar Practices in Australia’s Youth Justice Systems | Australian Human Rights Commission](#) at page 26

¹²³ Committee Against Torture, Concluding Observations on the Sixth Periodic Report of Australia (UN Doc No. CAT/C/AUS/ CO/6, 05 December 2022) 12 [38(d)].

¹²⁴ Committee on the Rights of Persons with Disabilities, Concluding Observations on the Combined Second and Third Period Reports of Australia (UN Doc CRPD/C/AUS/CO/2-3, 15 October 2019) paras 6 [25(d)] & 8 29(b).

¹²⁵ <https://www.pc.gov.au/closing-the-gap-data/annual-data-report/2025/> at page 110

¹²⁶ Ibid at page 111

¹²⁷ Ibid

¹²⁸ Ibid at page 7

¹²⁹ Ibid

Age of criminal responsibility

- 5.29 The low age of criminal responsibility across most Australian jurisdictions especially affects First Nations children, given their disproportionate interactions with the criminal justice system.¹³⁰ These children are more likely to have disability and neurodevelopment impairment, complex trauma, mental health disorders and drug and alcohol use disorders, and the current approach effectively criminalises unmet health, disability and trauma needs.
- 5.30 The Working Group on Arbitrary Detention was shocked by the low age of criminal responsibility in many jurisdictions in Australia, and noted this violates fundamental human rights norms. The Vice-Chair of the Working Group Dr Gillet said the treatment of children and teenagers in the justice system was a "stain on Australia's reputation", and the low age of criminal responsibility was "egregious."¹³¹ It recommended that Australia raise the minimum age of criminal responsibility to at least 14.¹³²
- 5.31 We note the government has previously responded in terms of states and territories responsibility for age of criminal responsibility laws. However, in the context of the majority of Australian jurisdictions failing to meet the UN benchmark minimum age, and concerns raised by Australian human rights organisations and UN bodies, it is clear the federal government must show leadership on this.
- 5.32 The federal government has power to raise the minimum age of criminal responsibility to 14 years old across Australia; and set minimum legislated standards for the treatment of children and young people in state and territory criminal legal systems.¹³³
- 5.33 The WGAD's recommendations are consistent with those made by Amnesty International Australia, and would more closely align Australia's youth detention systems with its international human rights treaty obligations. In Amnesty's view it is urgent and vital the Government act on them.
- 5.34 In February 2025, the Senate Legal and Constitutional Affairs Committee handed down its Interim Report on its Inquiry into Australia's youth justice and incarceration system, with particular reference to six matters including the over-incarceration of First Nations children.¹³⁴ The Inquiry heard of the need for a coordinated national approach to reform, enforceable national minimum standards to ensure children and young people's human rights under the CRC are protected¹³⁵, and a National Taskforce, Plan/Strategy to ensure a

¹³⁰ Davis, Megan, and McGlade, Hannah, 'International Convention on the Elimination of All Forms of Racial Discrimination – Early Warning and Urgent Action submission', 31 March 2025, https://www.hrlc.org.au/app/uploads/2025/04/United-Nations-CERD-complaint_youth-justice-in-Australia.pdf at p 19 par 82.

¹³¹ ABC News, 13 December 2025, 'United Nations delegation warns of Australia's treatment of prisoners, detainees and breach in human rights', <https://www.abc.net.au/news/2025-12-13/united-nations-warn-australia-prison-detention-human-rights/106136950>

¹³² Ibid at page 11

¹³³ Justice and Equity Centre, 15 September 2025, Explainer: Calling for Australian Government action to protect children, at <https://jec.org.au/publication/explainer-calling-for-australian-government-action-to-protect-children/>

¹³⁴ Parliament of Australia, Australia's youth justice and incarceration system, https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/Incarceration47

¹³⁵ Legal and Constitutional Affairs References Committee, Australia's youth justice and incarceration system, Interim Report, February 2025, https://parlinfo.aph.gov.au/parlInfo/download/committees/reportsen/RB000499/toc_pdf/Australia%e2%80%99youthjusticeandincarcerationsystem.pdf at p 113-117

collective, cross-portfolio multidisciplinary approach.¹³⁶ Stakeholders also identified the need for rights to be adequately protected either in a National Children's Act, or a federal Human Rights Act.¹³⁷

5.35 In relation to federal Budget expenditure, an increase in funding to First Nations-led programs focused on intervention, rehabilitation and reintegration should be made, and a Youth Justice Framework must be funded immediately, to allow the Commonwealth to work with states and territories to implement meaningful changes in youth justice across the country, including the immediate prohibition of solitary confinement for children, banning the holding of children in adult facilities, and use of practices on children in detention that breach their human rights, and raising the age of criminal responsibility to at least 14.

Recommendations

5.36 That the Australian government should:

1. Raise the age of criminal responsibility urgently across Australia to 14 years.
2. Immediately enact an enforceable prohibition on the use of solitary confinement.
3. Ban the use of practices on young people that breach international law; abusive, torturous, cruel or inhuman treatment - including spit hoods, mechanical restraints, and holding children in adult facilities and watch houses.
4. Invest in effective prevention and rehabilitation programs co-designed and delivered with First Nations People aimed at reducing the over-imprisonment of young people, and fund a Youth Justice Framework.
5. Introduce National, rights-based Minimum Standards for youth justice aligned with the UN Convention on Rights of the Child.
6. legal obligations redirect funds to expanding our humanitarian intake.

6. Climate justice

6.1 The WGAD's recommendations are consistent with those made by Amnesty International Australia, and would more closely align Australia's youth detention systems with its international human rights treaty obligations. In Amnesty's view it is urgent and vital the Government act on them.

6.2 In February 2025, the Senate Legal and Constitutional Affairs Committee handed down its Interim Report on its Inquiry into Australia's youth justice and incarceration system, with particular reference to six matters including the over-incarceration of First Nations children.¹³⁸ The Inquiry heard of the need for a coordinated national approach to reform, enforceable national minimum standards to ensure children and young people's human

¹³⁶ Ibid at p 118-122.

¹³⁷ Ibid at p 124-125

¹³⁸ Parliament of Australia, Australia's youth justice and incarceration system,

https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/Incarceration47

rights under the CRC are protected¹³⁹, and a National Taskforce, Plan/Strategy to ensure a collective, cross-portfolio multidisciplinary approach.¹⁴⁰ Stakeholders also identified the need for rights to be adequately protected either in a National Children’s Act, or a federal Human Rights Act.¹⁴¹

- 6.3 The climate emergency is an unprecedented human rights crisis. It threatens and harms the full spectrum of human rights, including people’s rights to life, health, housing, food, water, work, Indigenous cultural rights, and the right to a clean, healthy and sustainable environment. Climate change will harm all of us unless governments take action to end emissions, however, communities dependent on agricultural or coastal livelihoods – as well as those who are generally already vulnerable, disadvantaged and subject to discrimination – will be impacted most.¹⁴² Pacific Island communities are among the most vulnerable to harm.
- 6.4 The climate crisis is a manifestation of deep-rooted injustices. Although it is a global problem affecting everybody, climate change disproportionately affects individuals and groups who are already subjected to multiple and intersecting forms of discrimination or who are marginalised – on the basis of gender, class, race, disability, age and migration status – as a result of structural inequalities, ingrained practices or official policies that unfairly distribute resources, power and privilege.¹⁴³
- 6.5 Successive Australian governments have failed to demonstrate the ambition needed to address the accelerating human rights costs of climate change, and to protect people and their human rights from climate change, in Australia and throughout the world.
- 6.6 2024 marked the first year that average temperatures exceeded 1.5 degrees Celsius above pre-industrial levels, and the UN Environment Programme reports that the world is on track to reach roughly 3 degrees Celsius of warming above pre-industrial levels by the end of the century.¹⁴⁴ This is a critical moment, as the overarching goal of the Paris Agreement is to hold increase in the global average temperature to well below 2°C above pre-industrial levels, and pursue efforts “to limit the temperature increase to 1.5°C above pre-industrial levels.”¹⁴⁵
- 6.7 While the Climate Council notes global temperature limits cannot be breached in a single year, as climate science takes a long-term view of global temperature averages, the 1.6°C global average in 2024 is a clear warning sign that the world is moving closer to breaching

¹³⁹ Legal and Constitutional Affairs References Committee, Australia’s youth justice and incarceration system, Interim Report, February 2025, https://parlinfo.aph.gov.au/parlInfo/download/committees/reportsen/RB000499/toc_pdf/Australia%e2%80%99youthjusticeandincarcerationsystem.pdf at p 113-117

¹⁴⁰ Ibid at p 118-122.

¹⁴¹ Ibid at p 124-125

¹⁴² <https://www.amnesty.org.au/campaigns/climate-justice/>

¹⁴³ Amnesty International, *Stop Burning Our Rights! What governments and corporations must do to protect humanity from the climate crisis*, (Index: POL 30/4110/2021, at <https://www.amnesty.org.au/stop-burning-our-rights-climate-crisis-report/>

¹⁴⁴ Amnesty International, April 2025, *The State of the World’s Human Rights*, p 22, at <https://www.amnesty.org.au/wp-content/uploads/2025/04/The-State-of-the-Worlds-Human-Rights-Amnesty-International-Annual-Report-2025.pdf>

¹⁴⁵ Paris Agreement, Article 2, 1a, at United Nations Climate Change, <https://unfccc.int/process-and-meetings/the-paris-agreement>

the 1.5°C threshold.¹⁴⁶ This threshold is considered the upper limit of what vulnerable communities, coral reefs and ecosystems can withstand, and crossing it risks even more destructive impacts of climate change, with more frequent and severe droughts, heatwaves and rainfall.¹⁴⁷

6.8 When temperatures exceed 1.5°C above preindustrial conditions, “the risk of triggering irreversible and cascading climate impacts – such as loss of West Antarctic and Greenland ice sheets, Amazon rainforest dieback, loss of mountain glaciers and disruptions to global weather systems – increases.”¹⁴⁸ At 2°C warming, abrupt irreversible changes will see widespread system collapse – loss of ice sheets will cause multi-metre sea level rise, forcing entire communities and nations from their Pacific homes; melting soils and dying rainforest will cause massive release of heat-trapping gases; and 99% of coral reefs are expected to die.¹⁴⁹

6.9 Already communities in Australia are experiencing the impacts of the climate crisis, flooding in New South Wales and Queensland, algal bloom in South Australia that has devastated marine life, bushfires in Victoria, and heatwaves and drought across the country.¹⁵⁰ These events have costs people their lives, displaced people from their homes, and destroyed businesses and ruined livelihoods. 2024 demonstrated showed that, even at current levels of warming, the human rights costs of climate change are unacceptably high.¹⁵¹

6.10 However, the Australian government continues to approve coal and gas projects, including a 45-year extension of Woodside’s North West Shelf project, despite the harms to human rights already being caused by climate change and which will be accelerated by these approvals.¹⁵² These projects – 34 in total that have been approved under the Albanese Government – will account for one-eighth of global annual emissions over their lifetime.¹⁵³

6.11 There are 42 further new or expanded coal mines awaiting Federal Government approvals, and these have the potential to release more than 8.7 million tonnes of pollution every year in the 2030’s.¹⁵⁴ Australia exports much of the fossil fuels extracted – it is the world’s third-largest fossil fuel exporter, behind Russia and the United States, and second largest globally by total greenhouse gas footprint arising from those exports.¹⁵⁵ The approval of new fossil fuel projects creates a substantial risk of Australia failing to meet its climate targets, and global goals of keeping average warming below 2°C.¹⁵⁶

¹⁴⁶ Climate Council, 2025, *Stronger Target, Safer Future: Why Australia’s 2035 Climate Target Matters*, p 3, at <https://www.climatecouncil.org.au/wp-content/uploads/2025/07/Climate-Council-Australia-2035-Climate-Target-Report.pdf>

¹⁴⁷ Ibid

¹⁴⁸ Ibid

¹⁴⁹ Ibid p3

¹⁵⁰ Ibid

¹⁵¹ Above n136 p22

¹⁵² Human Rights Watch, 4 June 2025, ‘Australia Extends License for Nation’s Biggest Fossil Fuel Project Gas Expansion Undermines Indigenous Cultural Rights, Right to a Healthy Environment’, at <https://www.hrw.org/news/2025/06/04/australia-extends-license-for-nations-biggest-fossil-fuel-project>

¹⁵³ Climate Council, 23 Jan 2026, The Albanese Government’s fossil fuel approvals, at <https://www.climatecouncil.org.au/resources/albanese-governments-fossil-fuel-approvals/>

¹⁵⁴ Ibid

¹⁵⁵ Climate Analytics, August 2024, *Australia’s global fossil fuel carbon footprint*, page 20-21 at https://ca1-clm.edcdn.com/publications/Aust_fossilcarbon_footprint.pdf?v=1723409920

¹⁵⁶ Climate Council, 23 Jan 2026, above n 149

6.12 Additionally, Australia continues to provide major subsidies to the coal and gas industry. The Australia Institute's 2025 report found that Australia's subsidies to fossil fuel producers and major users from all governments totalled \$14.9 billion in 2024-2025.¹⁵⁷ The 2025-26 estimates were \$67 billion, 14.2 times more than Australia's disaster response fund.¹⁵⁸ Not only are these costly to the economy, and allow for fossil fuel extraction and exports to continue unabated causing massive climate harm, they are not consistent with Australia's international obligations and may expose the Australian government to legal action.

International legal obligations

6.13 In 2025, the International Court of Justice (ICJ) in a landmark, unanimous Advisory Opinion¹⁵⁹ held that States have obligations to ensure the protection of the climate system from greenhouse gas emissions for States and for current and future generations. This is a binding duty in international law, arising from climate, environmental and human rights treaties, and customary law.

6.14 The ICJ said that the environment "is the foundation for human life, upon which the health and well-being of both present and future generations depend", and affirmed that the *right to a clean, healthy and sustainable environment* was a binding norm of international law, and a precondition for the enjoyment of many other human rights.¹⁶⁰

6.15 States are obliged to take measures to prevent significant harm to the environment, including the climate system – and States that do not exercise due diligence in this obligation commit an internationally wrongful act.¹⁶¹ The ICJ held that this obligation extends to regulating the actions of private actors, such as fossil fuel companies:

"Failure of a State to take appropriate action to protect the climate system from GHG emissions — including through fossil fuel production, fossil fuel consumption, the granting of fossil fuel exploration licences or the provision of fossil fuel subsidies — may constitute an internationally wrongful act which is attributable to that State."

6.16 It said that "...a State may be responsible where, for example, it has failed to exercise due diligence by not taking the necessary regulatory and legislative measures to limit the quantity of emissions caused by private actors under its jurisdiction."¹⁶²

6.17 This means Australia, by approving new fossil fuel projects, continuing to heavily subsidise the fossil fuel industry, and exporting the majority of its emissions, is at real risk of violating its human rights obligations.¹⁶³ It could be held responsible for committing internationally wrongful acts, with serious legal consequences.¹⁶⁴

¹⁵⁷ The Australia Institute, 31 March 2025, Fossil fuel subsidies in Australia 2025: Federal and state government assistance to major producers and users of fossil fuels in 2024–25, at <https://australiainstitute.org.au/report/fossil-fuel-subsidies-in-australia-2025/>

¹⁵⁸ Ibid

¹⁵⁹ International Court of Justice (ICJ), Obligations of States in respect of Climate Change, 23 July 2025, at <https://www.icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf>

¹⁶⁰ ICJ, at [373]

¹⁶¹ ICJ, at [409]

¹⁶² ICJ, at [428]

¹⁶³ AHRC, Executive Summary: Human rights on a warming Earth, November 2025, page 4, at

https://humanrights.gov.au/_data/assets/pdf_file/0024/72465/2510-Climate-Change-Report_EXEC_SUMMARY.pdf

¹⁶⁴ ICJ [445]-[455]

A fast, fair and funded phase-out of fossil fuels and end to subsidies

- 6.18 To comply with its obligations under international law as clarified by the ICJ, Australia must use all appropriate means at its disposal to take real due diligence action, including regulating and limiting the actions of private actors in our jurisdiction such as fossil fuel companies.
- 6.19 Amnesty International has long called for all governments to implement a fast, fair, and funded phase-out of fossil fuels, to stop subsidising the fossil fuel industry to protect human rights, and for governments to take the most ambitious measures possible to prevent greenhouse gas emissions within the shortest time-frame possible.
- 6.20 Australia must take the ICJ Advisory Opinion seriously and curb its emissions urgently, including emissions from the export of coal and gas, approvals of new projects with massive forecast emissions that put us at risk of not meeting our own national climate targets, as well as ending its extensive subsidies for the fossil fuel industry to carry out fossil fuel exploration, extraction and exports.
- 6.21 For example, reforming just two major subsidies Government hands out to coal and gas corporations – the Petroleum Resource Rent Tax (PRRT) and the Fuel Tax Credit Scheme (FTCS) – could add well over \$10B to the Australian budget every year, to assist with the impacts of the climate crisis on the Australian community.¹⁶⁵

International responsibility to support mitigation, adaptation and resilience

- 6.22 The Australian Government also must take seriously its regional responsibilities to mitigate climate harm and impact to Pacific Island States and Peoples, and further in the Asia-Pacific. This region includes some of the most climate-vulnerable countries which means the refugee population is especially impacted by natural disasters such as floods, cyclones and extreme temperatures.¹⁶⁶
- 6.23 The UNHCR's *Strategic Plan for Climate Action to 2030* identifies that climate change is a human crisis, and increasingly linked to displacement. This includes both people fleeing from and unable to return back to highly climate-vulnerable countries, where basic living conditions are deteriorated, and forcibly displaced and stateless people living in the most climate-vulnerable situations in the world, where they and their host communities lack access to environmentally sustainable resources.¹⁶⁷
- 6.24 The Plan identifies 22 countries for priority focus due to heightened vulnerability to climate change. These countries will experience climate change and its impacts the most severely between now and 2030, and, given their preexisting fragility due to poverty and insecurity, the UNHCR assesses will find it particularly challenging to adapt to the effects of climate change.
- 6.25 Of these, nine countries are identified for particular concern, with large populations of displaced and stateless people, where climate was a key factor influencing forcibly displaced people's ongoing protection and humanitarian needs, as food and water is more

¹⁶⁵ Renew Australia For All, Climate safety plan, # 9, at <https://renewaustraliaforall.org/what-we-want/climate-safety-plan/>

¹⁶⁶ Ibid pg. 40

¹⁶⁷ UNHCR, 'Focus Area Strategic Plan for Climate Action 2024-2030', at page 3, <https://data.unhcr.org/en/documents/details/106704>

scarce and the drivers of conflict increase.¹⁶⁸ In each, the UNHCR says “there is relatively little investment from national, development and climate actors in adaptation and resilience for the fragile areas where forcibly displaced populations live”. These countries will most strongly feel the climate emergency, but do not have substantial planned development investment in climate adaptation and resilience and are not included in global climate financing instruments.¹⁶⁹

6.26 Bangladesh is one of the nine identified by the UNHCR as needing Humanitarian action to support climate resilience. Cox’s Bazar, where most Rohingya refugees live in camps, is often exposed to cyclones, torrential rains, landslides, flash floods, storm surges and extreme temperatures.¹⁷⁰ The influx of refugees from Myanmar given the continuing conflict in Rakhine State has impacted the environment and shared resources shared, leading to higher disaster risk, climate vulnerability and jeopardising the safety of both refugees and Bangladeshis.¹⁷¹

6.27 Projections show conditions will worsen, especially in Africa, South America, South Asia and Oceania.¹⁷² Given these factors, and that Bangladesh is a nation in Australia’s region hosting 1.5 million Rohingya refugees who will rely on the international community for resettlement if life becomes untenable, Amnesty strongly calls on the Government to consider funding adaptation and resilience measures in Bangladesh in the current Budget.

6.28 Historic high emitting countries such as Australia should provide significantly more grant funding for climate mitigation, adaptation, and resilience in lower-income countries most harmed by climate change. The ICJ held that *common but differentiated responsibilities and respective capabilities* is a core guiding principle for the implementation of climate change treaties.¹⁷³ It means the burden of climate change obligations should be distributed among States equitably, taking into account historical and current contributions to greenhouse gas emissions, as well as current capabilities and economic and social circumstances.¹⁷⁴ High emitters with strong capacity and economies such as Australia have responsibility to provide regional assistance for adaptation and mitigation based on this principle.

6.29 It is well-established that the Pacific is the region of the world that will be most impacted by climate change. Pacific countries are already experiencing sea level rise, higher temperatures, ocean acidification, and intensification of cyclones. As a party to the United Nations Framework Convention on Climate Change, Australia has an obligation to contribute towards global climate finance for mitigation, adaptation, and resilience. This includes contributing Australia’s fair share of \$14.4bn AUD annually to the New Collective Quantified Goal (NCQG) established at COP29 by 2035.

6.30 Australia’s current climate contributions do not match Australia’s responsibility based on our historic emissions. This funding should always be in the form of grants, not loans, and must be additional to the aid budget. The Pacific Island Climate Action Network calls for an end to the current unjust finance system, and instead urges reform for a

¹⁶⁸ Ibid at page 28

¹⁶⁹ Ibid at page 30

¹⁷⁰ Above n. 1, pg. 24

¹⁷¹ Ibid pg. 24

¹⁷² Ibid at page 11

¹⁷³ ICJ, [148]

¹⁷⁴ Ibid

reparative climate justice system that would empower vulnerable nations.¹⁷⁵ This would encompass:

- “Mandatory, Grant-Based Finance. We demand new, predictable, and accessible grant-based climate finance from developed countries, provided as reparations and separate from ODA. This funding must directly support mitigation, adaptation, and loss and damage without bureaucratic delays or colonial conditionalities.
- Address Loss and Damage. The existing Loss and Damage Fund is not fit for purpose. We demand climate reparations for historical injustices, aligned with the polluter-pays principle, to provide fair and adequate support for affected communities.”

6.31 Climate finance is necessary to minimise the human rights harms caused by climate change in lower-income countries on the frontlines of climate change through the implementation of robust early warning systems, resilient health systems and emergency response infrastructure.

Funding climate adaptation and resilience in Australia

6.32 Australia must also step up in its responsibility to provide for adaptation strategies, and ensure it invests in resilience measures for Australian communities against climate harm, including extreme heat. We are already seeing the impacts of climate change – threatening ordinary Australians’ rights to life, health, housing, food, water, work, and a clean, healthy and sustainable environment. Communities in Australia are increasingly experiencing extreme weather events including flooding, bushfires, drought, heat and heatwaves, and the slow onset impacts of climate change such as rising sea levels.

6.33 The National Climate Risk Assessment (NCRA) Report 2025 also forecast coastal flooding is set to spike from 15 to 257 days per year, with 3 million people living in coastal communities at risk. And said that “there remains an adaptation action shortfall in every system, risk category, jurisdiction, and region across Australia.”

6.34 Evidence shows that climate change is increasing the frequency and intensity of hot days and heatwaves,¹⁷⁶ and exposure to high heat is a major threat to human health.¹⁷⁷ Heat is particularly affecting people’s right to adequate housing in Australia.

6.35 The human right to housing is enshrined in Article 11(1) of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR).¹⁷⁸

“The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing,

¹⁷⁵ Climate Action Network, *Pacific Climate Justice Demands*, at <https://www.pican.org/pacific-demands>

¹⁷⁶ The Sixth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC) found human-caused climate change has increased the frequency and intensity of heatwaves since the 1950s and additional warming will further increase their frequency and intensity. With every additional increment of global warming, changes in extremes continue to become larger. For example, every additional 0.5°C of global warming causes clearly discernible increases in the intensity and frequency of temperature extremes, including heatwave intensity, frequency and duration:

<https://wmo.int/content/climate-change-and-heatwaves>

¹⁷⁷ Australian Council of Social Services (ACOSS), *Heat Survey Report 2025*, p 4 Key Findings, at <https://www.acoss.org.au/wp-content/uploads/2025/03/Heat-Survey-Report-v1.0-Digital.pdf>

¹⁷⁸ UNGA Res 2200A (XXI) (adopted 16 Dec 1966, entered into force 3 Jan 1976).

and to the continuous improvement of living conditions ...”

- 6.36 The 2025 report *The Right to Housing in Australia* sets out seven elements that comprise the right to adequate housing in international law, as described by the Committee on Economic, Social and Cultural Rights.¹⁷⁹ One is Habitability – housing must meet basic standards of safety and quality, and protect the occupants from physical threats like damp, structural hazards, and relevantly, heat.¹⁸⁰
- 6.37 It is notable that Australia has not enshrined the right to housing as a human right into its domestic law. Amnesty has called for this right to be included in a federal Human Rights Act, which could also relevantly protect the right to a healthy environment.
- 6.38 Extreme heat is known to be the most fatal of all extreme weather events exacerbated by climate change - heat kills more people in Australia than any other natural disaster.¹⁸¹ A 2022 Australia Institute report found that Western Sydney is disproportionately impacted by extreme heat, due to its geography compounded by poor urban design.¹⁸² This is one of the fastest growing urban areas in Australia, with more growth expected. The report projected that without strong climate action aligned with international efforts to curb emissions and adapt to rising heat, Western Sydney could experience up to 46 days of extreme heat annually by 2090 – a fivefold increase from historical average.¹⁸³ Australia’s first ever National Climate Risk Assessment Report 2025 forecast a 444% increase in heat-related mortality in Sydney.¹⁸⁴
- 6.39 ACOSS’s 2025 *Heat in Homes Survey Report* key findings state that more people die in Australia from heatwaves than all other extreme weather events combined, and people who experience financial and social disadvantage are the most impacted by heat events, because they are “more likely to live in poor energy performing homes, face unaffordable energy bills, and often lack the resources or control to implement solutions.”¹⁸⁵ In the survey 87% of people said their homes got too hot, but 92% of First Nations respondents, and 95% of respondents who were renting, and 91% of those with a disability or chronic medical condition.¹⁸⁶
- 6.40 ACOSS found that people with a disability, chronic medical condition or receiving income support were five times more likely to seek medical attention because their home was too hot, renters were nearly three times more likely and First Nations people twice as likely.¹⁸⁷ It also found people struggling with energy bills costs were going without essentials to reduce energy usage, such as 50% going without food or medicine.
- 6.41 ACOSS makes a number of recommendations, including the urgent need to direct government investment to improving the energy performance of social housing, prioritising First Nations housing energy upgrades; assisting low-income households to access

¹⁷⁹ Professor Jessie Holman, UTS, and Human Rights Law Centre, *The Right to Housing in Australia*, 17 February 2025, page 3, at <https://www.hrlc.org.au/app/uploads/2025/02/RightToHousingReport2025.pdf>

¹⁸⁰ Ibid at page 4

¹⁸¹ The Australia Institute, 2022, HeatWatch: Extreme Heat in Western Sydney, page 2, at <https://australiainstitute.org.au/wp-content/uploads/2022/01/HeatWatch-2022-WEB.pdf>

¹⁸² Ibid at page 2

¹⁸³ Ibid

¹⁸⁴ <https://www.actu.org.au/media-release/workers-to-be-hit-hard-by-climate-crisis-new-report-confirms/>

¹⁸⁵ ACOSS 2025, above n170

¹⁸⁶ Ibid at page 5

¹⁸⁷ Ibid

upgrades; raising the minimum energy performance standards for new homes; and mandatory energy performance standards for rental properties.¹⁸⁸

- 6.42 Much of Australia's social housing is poorly insulated and not suitable for the currently climate, much less for a warming one, particularly in remote communities which are more susceptible to extreme heat.¹⁸⁹ In the NT where extreme heat impacts remote communities, the 7-star building code tied to thermal performance on home builds in other states doesn't apply. To safeguard from the impacts of climate change, remote housing should be designed in collaboration with Indigenous people to ensure both culturally and climate safe design.¹⁹⁰
- 6.43 A Climate Safety Plan developed by the coalition Renew Australia For All includes 8 asks on preparing for climate resilience and adaptation, aimed at ensuring no one in Australia is left managing the impacts of climate change alone. Renew Australia notes that "for every dollar we spend building our resilience and preparedness, we save \$10 that would otherwise need to be spent on response and recovery, which is already costing us billions each year."¹⁹¹
- 6.44 The first of Renew's asks is climate proofing homes, schools and workplaces. This would address the lack of climate efficiency in Australia's housing stock – among the least energy-efficient in the developed world. Poorly insulated homes impact on families' lives, and many workplaces and schools struggle in the heat and cold. Renew Australia calls for all existing, new and upgraded buildings to be made energy efficient, liveable, and resilient to rising heat and extreme weather.¹⁹²
- 6.45 Given the impact of heat levels as described in ACOSS's Heat Survey and media reports on remote housing and heat, it is clear that the climate crisis is already impacting on people's right to adequate housing, by affecting Habitability. In Amnesty's view, it is crucial that resources are urgently allocated to climate-proofing homes – especially the homes of vulnerable communities such as those living in social housing, those with disabilities or medical conditions, migrants, and First Nations communities. It is also clear that rising extreme heat is impacting on the most fundamental of human rights, the right to life.
- 6.46 The Australian Human Rights Commission's November 2025 *Climate Change Report* calls on the Australian Government to phase out fossil fuel subsidies and instead provide climate finance that supports human rights-based climate mitigation and adaptation measures.^[66] Amnesty International Australia supports ending subsidies for the fossil fuel industry, which will provide revenue to fund the necessary and critical adaptation and resilience measures Australians urgently need to keep people and communities safe. We urge the Government to consider recommendations on ending fossil fuel emissions and subsidies, and measures to support the Australian community to adapt to the human rights threats of the climate crisis, including urgent measures to address the most lethal risk of rising heat affecting right to life.¹⁹³

¹⁸⁸ Ibid at page 63-64

¹⁸⁹ ABC, 29 September 2026, 'These Australians are homeless with a house', at <https://www.abc.net.au/news/2025-09-29/remote-nt-housing-amid-rising-temperatures-climate-change/105421962>

¹⁹⁰ See for example Simon Quilty, specialist in heat and housing design impact human health, with Wilya Janta, promoting cultural and thermal design in Indigenous community housing: <https://www.wilyajanta.org/>

¹⁹¹ Renew Australia For All, 2026 Climate Safety Plan, at <https://renewaustraliaforall.org/what-we-want/climate-safety-plan/>

¹⁹² Ibid

6.47 In this Budget, we urge the Government to heed the call to comply with its international obligations and responsibilities to the Australian community to protect people from the human rights harms caused by climate change. We must phase out fossil fuels by adopting and enforcing measures to prohibit new fossil fuel projects and strictly regulating the import and export of fossil fuels.¹⁹⁴ We must also end massive fossil fuel subsidies, starting with the Petroleum Resource Rent Tax and the Fuel Tax Credit Scheme, and channel the fiscal savings into human rights-based mitigation, adaptation and resilience measures to protect the Australian community; our Pacific Island neighbours in their fight for survival against devastating climate harms; and those around the world most at risk from climate change.

6.48 People's rights to life, health, adequate housing, food and water and First People's rights are legal obligations Australia committed to uphold under international law, and they must be protected in the face of climate change harms.¹⁹⁵

Recommendations

6.49 We call on the Australian government to:

1. Commit to a fair, fast and funded phase out of fossil fuels – including prohibiting new projects and regulating import and exports.
2. End subsidies for the fossil fuel industry and support for “carbon capture and storage” schemes.
3. Raise revenue by forcing the fossil fuel industry to compensate for its contribution to climate change.
4. Increase funding for the transition to renewable energy with respect for human rights as a core principle of the transition.
5. Provide funding for communities to prepare and respond to the impacts of climate change, including community-led and Indigenous-led initiatives.
6. Commit funding for global mitigation, adaptation, and resilience, to meet Australia's share of the global New Collective Quantified Goal as agreed at COP29, including funding adaptation and resilience measures in the Pacific Islands, and in Bangladesh in recognition of our regional responsibilities and the 1.5 million displaced people being sheltered there.

¹⁹⁴ Australian Human Rights Commission, November 2025, Human Rights on a Warming Earth report p 12, at https://humanrights.gov.au/data/assets/pdf_file/0023/72464/2510-Climate-Change-Report_ACC_FINAL.pdf

¹⁹⁵ President Hugh de Kretser, Australian Human Rights Commission, <https://humanrights.gov.au/know-your-rights/rights-of-individuals/climate-change-and-human-rights/projects-and-reports/human-rights-on-warming-earth>