

# Submission to the Legal and Constitutional Affairs References Committee

## Offshore processing and resettlement arrangements inquiry

Jesuit Refugee Service (JRS) Australia, 13 February 2026

### About Jesuit Refugee Service (JRS) Australia

Jesuit Refugee Service (JRS) Australia is pleased to provide this submission to the Legal and Constitutional Affairs References Committee.

JRS is an international Catholic organisation working in over 57 countries to accompany, serve and advocate for people seeking asylum and migrants in situations of vulnerability. In Australia, JRS provides frontline services and advocacy through two community spaces in Western Sydney and supports more than 3,600 people annually, including individuals and families directly affected by Australia's offshore detention and externalisation policies.

JRS Australia endorses and was party to the 2025 UPR Civil Society Report and NGO submission to the UN Working Group on Arbitrary Detention, which call for an end to offshore processing, the evacuation of affected individuals to Australia and implementation of safeguards to prevent future violations.

This submission is informed by JRS Australia's direct service provision, including the long-term accompaniment of people who were transferred by the Australian Government to offshore processing centres in Nauru and Papua New Guinea (PNG), as well as individuals currently living in Australia on temporary or precarious visas following years of offshore detention, many of whom face the prospect of re-detention in Nauru.

While the Committee is limited to reviewing arrangements since 2022, we consider that the lived-experience of those subject to these arrangements prior to that time can offer valuable insight into the enduring risks and dangers of this practice. We suggest the inquiry should consider these experiences, as well as the extraordinary \$13 billion in public expenditure on offshore processing since 2012.

We set out our concerns below, addressing:

- (1) the human rights violations present in offshore processing, including its ongoing impacts for people onshore, the exacerbation of harm to vulnerable groups, and our serious concerns held for the 'NZYQ' cohort facing deportation to Nauru; and
- (2) concerns over the Nauru deal, including overspending, corruption, a lack of transparency and the use of private contractors in offshore processing.

## **1. Human Rights Violations in Offshore Processing**

Based on our direct service experience and consistent reporting by civil society, Australia's offshore processing practices have resulted in and continue to pose a serious risk of the following violations:

- Arbitrary detention, including prolonged and indefinite detention offshore and the threat of re-detention for individuals who refuse transfer to third countries;
- Violations of the prohibition of refoulement, including risks of chain and constructive refoulement arising from transfer to a State with limited protection capacity and opaque onward-removal practices;
- Denial of due process and effective remedies, including removal without meaningful access to legal advice, judicial review or procedural fairness;
- Cruel, inhuman or degrading treatment, arising from prolonged uncertainty, harsh living conditions, and severe mental suffering;
- Family separation, including the forced and potentially permanent separation of individuals from Australian-based family members;
- Discrimination, particularly on the basis of race, nationality and mode of arrival.<sup>1</sup>

The harm associated with Australia's offshore system is well-documented and systemic, including deaths, suicides, sexual and gender-based violence, inadequate medical care, and long-term psychological trauma.<sup>2</sup>

Those who remain offshore continue to be at risk of the above human rights violations and face no durable resettlement options. As of September 2025, approximately 91 people remain in Nauru.<sup>3</sup>

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### **Case Study 1: Violence, prolonged detention and denial of family reunification (Thanush)**

Thanush, a Tamil man from Sri Lanka, was transferred by Australia to offshore detention on Manus Island in 2013, where he was held for five years. During this time, he experienced prolonged isolation, with no access to a phone or internet for more than three years, and severe deterioration of his mental health.

After the Supreme Court ruled the detention centre unlawful, detainees were denied food, electricity and water for 24 days. During protests, Thanush's arm was broken by riot police.

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<sup>1</sup> See UN Special Rapporteur on the human rights of migrants, *Externalization of migration governance and its effect on the human rights of migrants* (A/80/302), 4 August 2025; UN Human Rights Committee, *Views finding Australia responsible for arbitrary detention of asylum seekers transferred to Nauru* (January 2025).

<sup>2</sup> Madeline Gleeson and Natasha Yacoub, *Cruel, Costly and Ineffective: The Failure of Offshore Processing in Australia*, Kaldor Centre for International Refugee Law, August 2021; Amnesty International, *Australia: Appalling abuse, neglect of refugees on Nauru*, 2 August 2016; Paul Farrell, Nick Evershed and Helen Davidson, *The Nauru Files*, The Guardian, 10 August 2016; Human Rights Law Centre et al., *Torture and cruel treatment in Australia's refugee protection and immigration detention regimes*, Submission to the UN Committee Against Torture, 3 October 2022.

<sup>3</sup> Refugee Council of Australia, *Offshore processing statistics*, 8 February 2026, <https://www.refugeecouncil.org.au/operation-sovereign-borders-offshore-detention-statistics/3/>

He reports that many others were injured, and that at least 13 men later died due to inadequate access to medical care.

Thanush was eventually medically evacuated to Australia, only to be placed in hotel and community detention for a further three years. More than twelve years after his initial detention, his visa status remains unresolved in Australia, and he has been denied family reunification throughout this period. Thanush has also made an independent submission to this inquiry detailing his experiences.

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### **Human rights violations persist after offshore detention**

Many individuals who were subject to offshore processing and detention, and who JRS Australia continues to support, now live in Australia on temporary visas with no clear pathway to permanency. Individuals transferred from offshore are typically granted bridging visas with a duration of up to six months and are often ineligible for study rights. This entrenches ongoing structural disadvantage by restricting access to meaningful employment, education and vocational training thereby undermining economic contribution, community participation and self-sufficiency.

Individuals granted short-term bridging visas are typically granted the right to work, with the expectation of the Department of Home Affairs being that they will work to support themselves while making arrangements to depart the country. This comes despite the enduring and serious mental and physical health conditions arising from prolonged detention, family separation and trauma, limiting their capacity to obtain employment. In addition, the short-term nature of the visas granted significantly limits their ability to find sustainable employment because it acts as a deterrent to employers. That an individual's bridging visa includes the right to work usually precludes them from accessing the Status Resolution Support Service, the only safety net available to people seeking asylum. Individuals who have been subject to offshore detention are therefore left without any safety net and face high rates of destitution.

Durable resettlement pathways for this cohort are now limited, with the Australia / New Zealand resettlement arrangement ceasing in June 2025. Many now face the prospect of transfer to Nauru, further increasing uncertainty and exacerbating the cumulative psychological impacts of prolonged detention.

Australia's offshore processing framework ultimately creates a permanent responsibility vacuum, in which people recognised as needing protection are denied any durable solution. By preventing local integration, blocking family reunification, and refusing resettlement pathways, Australia maintains effective control over individuals' lives while disclaiming responsibility for their long-term welfare.

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#### ***Case Study 2: Prolonged limbo and intergenerational harm following offshore detention (Layla\*)***

*The following anonymised case study is drawn from JRS Australia's direct accompaniment and service work, illustrating how Australia's offshore processing arrangements translate into ongoing human rights violations, including prolonged punishment without sentence, family separation, denial of medical care, and the use of transfer and exile as tools of coercion.*

Layla\* and her family were transferred by Australia to Nauru in 2013. During detention, they lived in unsafe and degrading conditions, including rodent infestations, lack of hygiene, and ongoing fear. Layla recalls that her children “would wet their beds due to fear and wouldn’t be able to take a shower,” and that requests for basic safety were met with mockery by contracted staff.

Layla and her family were later transferred to Australia for medical treatment while still awaiting a refugee status determination in Nauru. On appeal, Layla’s daughter was found to be owed refugee protection which then granted the family complementary protection. A complementary protection finding means that Layla and her family are ineligible for third-country resettlement under current agreements. Layla’s daughter is now an Australian citizen however Australia continues to bar Layla and her remaining family members from settling permanently.

More than a decade later, Layla remains trapped in legal and existential limbo: “I’m not able to go back to Nauru, not able to settle in Australia, not able to go back to my country. What am I meant to do?”

Layla continues to experience the psychological impacts of detention, describing her situation as ongoing punishment without cause or end:

“I’ve been punished since 2013. I don’t know what crime I did and how long I will be punished.”

Layla’s case illustrates how Australia’s offshore processing arrangements leave enduring harm long after physical detention ends, particularly for children, and how temporary protection frameworks perpetuate suffering rather than resolve displacement.

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### **Detention disproportionately impacts vulnerable populations and compounds discrimination**

Australia’s offshore processing measures have had particularly serious impacts on people in vulnerable situations. Children and families have been exposed to prolonged uncertainty, psychological harm, disruption to education and development, and the risk of family separation (including separation from Australian-citizen children), often without adequate child-specific safeguards in removal decisions. People with disabilities and those with complex health needs have been disproportionately affected, facing heightened risks to their health and wellbeing, including the possibility of irreversible harm.

Women, girls and LGBTQI+ persons have also experienced compounded and intersectional discrimination, including heightened risks of sexual and gender-based violence in offshore detention and community settings, inadequate protection and reporting mechanisms, and discrimination based on gender identity, sexual orientation, race and nationality.

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### **Case Study 3: Family separation impacts on women and children following offshore detention (Shifra\*)**

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Shifra\* arrived in Australia by boat with her husband and was transferred to Nauru. While in detention, she became pregnant and later gave birth to her daughter. Shifra and her child were subsequently released into community detention in Australia, without her husband, resulting in prolonged family separation.

When Shifra first engaged with JRS Australia's Finding Safety Project, she was isolated, unfamiliar with the community and experiencing significant anxiety linked to her detention experiences, separation from her partner. Her case illustrates how offshore detention directly undermined her right to family life and particularly places single mothers at heightened risk of isolation and psychological harm.

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### **Specific concerns for the NZYQ Cohort amid prospects of re-detention**

JRS Australia provides direct services to members of the 'NZYQ' cohort, consisting of individuals released from long-term immigration detention following the High Court of Australia's 2023 decision *NZYQ v Minister for Immigration, Citizenship and Multicultural Affairs*, which found that the indefinite detention of people who cannot be removed from Australia is unlawful and unconstitutional.

JRS Australia holds grave concerns regarding the multi-billion dollar 'Nauru Deal' signed in October 2025. Under this agreement, Australia can forcibly transfer non-citizens, including the 354 members of the 'NZYQ' cohort to Nauru, without procedural safeguards or due process.<sup>4</sup>

The Nauru Deal was implemented in conjunction with legislative changes that remove considerations of health, family unity, and other fundamental protections from removal decision-making and expand Australian authorities' power to deport non-citizens without independent oversight.<sup>5</sup> Collectively these legislative and policy responses risk creating a back-door deportation regime, effectively circumventing the protections afforded to the 'NZYQ' cohort by the High Court's decision.

In addition, there are significant concerns that Australia does not have sufficient oversight mechanisms in place to ensure that individuals deported to Nauru will not be exposed to ill-treatment, torture or onward removal to their countries of origin where they may face persecution.<sup>6</sup> Several individuals belonging to the NZYQ cohort have already been re-detained and are awaiting deportation to Nauru, with some being issued 30-year visas to the Pacific nation.

The arrangement raises the potential for a lifetime of exile, without any clear pathway to permanent resettlement or guaranteed freedom of movement. The risk of indefinite detention remains for this cohort, should individuals refuse transfer. Many belonging to the cohort face the prospect of forced and indefinite separation from their family members, in addition to facing significant risk to their physical health and wellbeing. This is particularly pronounced for those with existing conditions or for those who live with a disability. Nauru is a remote Pacific Island with minimal infrastructure and which is also vulnerable to the impacts of climate-change. There are limited services that provide health and mental health care. The nation experiences chronic food shortages and a high unemployment rate, which make it unsuitable to host and support vulnerable people.

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<sup>4</sup> JRS Australia, *First Person Deported to Nauru under Secret Offshore Deal: "Profound betrayal of Australian values"*, 30 October 2025, <https://aus.jrs.net/en/news/first-person-deported-to-nauru-under-secret-offshore-deal>.

<sup>5</sup> JRS Australia, *Statement on Passing of Anti-Fairness Bill: "A Betrayal of Human Rights"*, 8 September 2025, <https://aus.jrs.net/en/news/statement-on-passing-of-anti-fairness-bill>.

<sup>6</sup> Sarah Basford Canales, *Australia lacks 'legitimate objective' in fast-tracking Nauru deportations, Labor-led committee finds*, The Guardian, 6 October 2025.

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#### **Case Study 4: Risk of death and inhuman treatment for a person with disability (Ali\*)**

Ali\* is currently living in the Australian community on a Bridging Visa R after the cancellation of his permanent protection visa. His time in Australia has been marred by long periods of detention. Ali was injured in custody, leaving him with a degenerative spinal condition that has worsened over time.

During his time in immigration detention, Ali received inadequate medical care, and he gradually lost the use of his legs. Ali was transferred from closed to community detention and was cared for in a nursing home before being released into the community as a result of the High Court of Australia's ruling.

Ali now requires full-time care, relies on a catheter, and has not left his home in over a year. Despite his condition, he remains subject to potential removal to Nauru, a prospect that has caused him profound distress:

“Sending me to Nauru would be a death sentence... do you think I will survive in Nauru?”

Ali describes the cumulative impact of prolonged detention and uncertainty:

“In 2019, I wasn’t bed-bound. I had hope. Now I don’t.”

His case raises serious concerns regarding arbitrary detention, the prohibition of cruel and inhuman treatment, and the absolute obligation to prevent deportation or refoulement where transfer would result in serious harm or death.

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## **2. Offshore arrangements unfit for purpose, characterised by mishandling, and a lack of transparency**

### **Transparency**

Australia's offshore processing arrangements are widely considered to be characterised by systemic secrecy, including the non-publication or partial publication of bilateral agreements, restricted access for national human rights institutions, and the absence of independent human rights impact assessments.<sup>7</sup> Offshore processing facilities operate with limited parliamentary oversight, while whistleblowers face threats of criminal penalties for detailing allegations of corruption.<sup>8</sup>

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<sup>7</sup> Ben Doherty and Sarah Basford Canales, *Nauru president accused in parliament of corruptly siphoning off millions of Australian funding*, The Guardian, 26 November 2025; JRS Australia, *First Person Deported to Nauru under Secret Offshore Deal: “Profound betrayal of Australian values”*, 30 October 2025; Transparency International Australia, *TI Australia urges NACC probe into Nauru detention spending amid serious corruption allegations*, 11 November 2025; 60 Minutes Australia, *How Australia got rid of illegal immigrants*, 9 November 2025.

<sup>8</sup> Asylum Seeker Resource Centre, *Nauru transcript exposes Albanese Government secrecy over billions in offshore spending*, 24 November 2025; Amy Nethery and Rosa Holman, *Secrecy and human rights abuse in Australia’s offshore immigration detention centres*, International Journal of Human Rights 20(7):1 (July 2016).

Further, there is no independent monitoring body with sufficient powers to oversee offshore facilities or third-country reception arrangements, and individuals affected have no accessible complaint or redress mechanism when they are mistreated.

Australia's offshore processing practices also rely heavily on digital and surveillance technologies, including biometric identification systems, data-sharing across jurisdictions, surveillance infrastructure modelled on carceral environments, and risk-assessment tools used to justify restrictive measures. These systems often lack meaningful informed consent and data-protection safeguards.<sup>9</sup>

Finally, private contractors play a central role in the design and operation of offshore processing, including detention, security, welfare and logistics – at great cost to the Australian taxpayer, without sufficient oversight, and posing serious risks to the human rights of people detained in their facilities.<sup>10</sup>

### **Impact on third states**

Australia's offshore processing arrangements and agreements with third states are typically enabled by significant power imbalances, financial dependence and limited alternatives for small or less-resourced states, namely small and low-lying Pacific Island nations.<sup>11</sup> From a human rights perspective, these dynamics raise serious concerns about the capacity of third states to provide effective protection, oversight, and durable solutions for transferred individuals.

In practice, JRS Australia observes that offshore processing arrangements place disproportionate strain on the legal, health and social systems of third states and expose both transferred populations and host communities to harm, while allowing Australia to distance itself from responsibility. These arrangements do not resolve displacement or protection needs, but instead relocate risk and suffering, often with long-term consequences for governance, accountability and social cohesion in third states.<sup>12</sup>

### **Specific concerns around the Nauru Deal**

In October 2025, the Australian Government entered into a 30-year agreement with the Republic of Nauru that significantly expands the offshore processing regime and introduces indefinite “third-country reception” arrangements.<sup>13</sup>

The financial commitments underpinning this deal are substantial and poorly disclosed. Public reporting indicates the agreement involves an initial payment to Nauru of approximately \$408 million; and annual

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<sup>9</sup> Daniel Ghezelbash and Petra Molnar, *Advancing the Responsible Use of Technology in Alternatives to Detention*, Kaldor Centre / International Detention Coalition / Refugee Law Lab, September 2025; Ariel Bogle, *Revealed: the secret algorithm that controls the lives of Serco's immigration detainees*, The Guardian, 13 March 2024.

<sup>10</sup> Sarah Basford Canales and Ben Doherty, *US private prisons operator to be paid \$790m to hold 100 people on Nauru*, The Guardian, 29 September 2025; Steven Caruana and Diana Johns, *From detention officer to detention monitor*, Incarceration 3(2), June 2022.

<sup>11</sup> Julia C. Morris, *Violence and extraction of a human commodity: from phosphate to refugees in the Republic of Nauru*, The Extractive Industries and Society 6(4), November 2019; Stephen Dziedzic, *Australia inks treaty with Nauru locking out growing Chinese influence*, ABC News, 9 December 2025.

<sup>12</sup> Gleeson and Yacoub, *Cruel, Costly and Ineffective*, Kaldor Centre, August 2021; Isabelle Lane, *'We're seeing a race to the bottom': How Australia inspired the UK's controversial Rwanda asylum seeker deal*, SBS News, 17 June 2022.

<sup>13</sup> Migration Amendment Act 2024 (Cth), inserting s 198AHB into the Migration Act 1958.

payments of about \$70 million each year for up to 30 years. If the arrangement is upheld in full, these payments could amount to around \$2.5 billion over its lifetime.

These costs are in addition to the more than \$13 billion already spent on Australia's offshore detention policy since 2012.

The terms of the Nauru deal, including how public funds are managed, what obligations Nauru has accepted, and how compliance is enforced, have not been fully published or explained, raising serious fiscal transparency concerns amid allegations of corruption.<sup>14</sup> This opacity persists even though the Australian Human Rights Commissioner has described the arrangement as reflecting "a disturbing lack of transparency."<sup>15</sup>

There is no independent monitoring body with the statutory powers, access or resources to oversee conditions in Nauru – while there is also evidence that people sent to Nauru face real risks of return to serious harm or refoulement,<sup>16</sup> and whistleblower testimony has alleged corruption, contract mismanagement and possible misuse of public funds in connection with offshore operations in Nauru.<sup>17</sup>

United States company Management and Training Corporation (MTC) holds the contract with the Australian Government to provide "reception, garrison and welfare services" on Nauru, with their amended contract extended to 2027 and increasing from \$365 million to \$787 million.<sup>18</sup> MTC's record in the United States has been heavily criticised, with civil lawsuits claiming gross negligence and security failures.<sup>19</sup> This raises serious concerns about the suitability of private contractors like MTC to manage the welfare of those sent to Nauru under the Nauru Deal.

These systemic issues reflect broader concerns about the capacity of offshore arrangements to meet Australia's international human rights obligations, and evidence the risks of combining poorly supervised, dangerous offshore arrangements with substantial public expenditure.

### **Concluding Observations and Recommendations**

Australia's offshore processing arrangements are deliberately designed to shift responsibility, obscure accountability and normalise serious human rights violations. The harm caused is not incidental, but intrinsic to a deterrence-based model that relies on suffering as a policy tool.

The arrangements also cost Australian tax-payers inordinate amounts of money, while contravening international human rights obligations and remaining unfit for purpose.

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<sup>14</sup> Ben Doherty and Sarah Basford Canales, *Nauru president accused in parliament of corruptly siphoning off millions of Australian funding*, The Guardian, 26 November 2025.

<sup>15</sup> Australian Human Rights Commission, *Human Rights Commissioner calls for transparency in Nauru deportation arrangement*, October 2024.

<sup>16</sup> Asylum Seeker Resource Centre, *Nauru transcript exposes Albanese Government secrecy over billions in offshore spending*, 24 November 2025.

<sup>17</sup> 60 Minutes Australia, *How Australia got rid of illegal immigrants*, 9 November 2025.

<sup>18</sup> Sarah Basford Canales and Ben Doherty, *US private prisons operator to be paid \$790m to hold 100 people on Nauru in quiet expansion of contract*, The Guardian, 29 September 2025.

<sup>19</sup> Ibid.

There is no credible evidence that Australia's offshore processing arrangements sustainably reduce displacement or unsafe migration. Instead, these measures contribute to riskier migration routes, greater reliance on smugglers; and prolonged human suffering without addressing root causes of movement or honouring a person's right to seek asylum.

**JRS Australia therefore recommends that the Australian Government:**

1. Immediately suspend all offshore processing and third-country reception arrangements;
2. Return all individuals transferred to Nauru or PNG to Australia and provide safe, permanent and dignified solutions;
3. Conduct independent, public human rights impact assessments of all migration agreements;
4. Ensure transparency, parliamentary oversight, and access to effective remedies;
5. Redirect resources toward fair, efficient, and humane onshore asylum procedures.