

**Head Office**  
A Level 1,  
39 Brisbane Avenue,  
Barton, ACT 2600

**Postal Address**  
PO Box 6099,  
Kingston, ACT 2604

**ABN:**  
67079 544 513

**Email:**  
info@amsa.org.au

**Website:**  
www.amsa.org.au



# *Policy Document*

## Refugee and Asylum Seeker Health (2023)

### Position Statement

AMSA believes that:

1. All refugees and asylum seekers must be treated with humanity and with respect for inherent dignity;
2. All international governments, including Australia, must meet their international human rights obligations and must immediately cease all human rights violations towards refugees and asylum seekers;
3. All participating nations, including Australia, must abolish the use of discriminative detention on refugee and asylum seekers in favour of humane and compassionate alternatives;
4. The Australian Government must increase the accessibility of specialist health care for refugees and asylum seekers, acknowledging the numerous challenges they face, including lack of status recognition, financial, cultural, language and literacy barriers;
5. The Australian Government must oppose the use of offshore processing and indefinite detention, the sacrifice of the physical or mental health of any refugee or asylum seeker in order to achieve other political or policy goals, and the prohibition of whistleblowers and press reporting;
6. Australian medical schools should prioritise educating medical students on the delivery of culturally competent and appropriate healthcare to refugees and asylum seekers.

### Policy Points

AMSA calls upon:

1. The Australian Commonwealth Government to:
  - a. Respect and uphold the fundamental rights and freedoms enshrined within the United Nations Universal Declaration of Human Rights;
  - b. Act in strict accordance with international law and the human rights treaties to which it is party, including, but not limited to:
    - i. Convention Relating to the Status of Refugees 1951;
    - ii. International Covenant on Civil and Political Rights;
    - iii. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and
    - iv. Convention on the Rights of the Child;

- c. Cease the mandatory and indefinite detention of people seeking asylum in Australia by:
    - i. Re-amending the Migration Act 1958 (Cth) to prohibit this practice;
    - ii. Removing all children immediately from onshore detention facilities;
    - iii. Redirecting the associated expenditure towards community assessment and placement models and appropriate healthcare;
  - d. Cease the practice of offshore processing and detention;
  - e. Offer appropriate medical, psychological and other practical supports for detainees in offshore detention while awaiting resettlement;
  - f. To cease discrimination or differentiation of asylum claims based on mode of arrival;
  - g. Reintroduce the Medevac Bill to ensure Asylum Seekers have access to urgent medical care;
  - h. End rhetoric that discriminates against asylum seekers who arrive by boat;
  - i. Enforce a reasonable, humane time limit for administrative detention in immigration facilities, modelled on a policy of 'detention as a last resort' and based on the following principles:
    - i. A tiered system of alternatives to detention and/or visa options;
    - ii. Case-based assessment and ongoing management of persons to ensure appropriateness of placement;
    - iii. Use of residence arrangements and Bridging visas with sufficient social and economic permissions to meet the health needs of asylum seekers and refugees; and
    - iv. Adequate and equitable provision of healthcare to asylum seekers and refugees independent of their placement in this model;
  - j. Increase funding in the federal budget for health services that support refugees and asylum seekers in the community, including:
    - i. Services Australia for Asylum Seeker Support
    - ii. Targeted support schemes, particularly for torture, trauma and domestic violence support.
    - iii. Inclusion of asylum seekers in integral budget measures, such as Medicare, Child Care Subsidy, Rent Assistance and JobSeeker – as opposed to the underused Status Resolution Support Service.
  - k. Preserve the autonomy of clinicians in providing medical treatment to refugees and asylum seekers.
2. International Community including national governments to:
- a. Pursue inter-disciplinary engagement to support asylum seekers and refugees in improving their access to healthcare and services;

- b. Advocate for the health of asylum seekers and refugees, as a basic human right, and act in accordance with international law and the human rights treaties to which it is party, including, but not limited to:
    - i. Convention Relating to the Status of Refugees 1951;
    - ii. International Covenant on Civil and Political Rights;
    - iii. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and
    - iv. Convention on the Rights of the Child;
  - c. Adhere to the guidelines and recommendations outlined in the Global Compact on Refugees to ensure global responsibility sharing in support of refugees.
3. Medical Schools to:
- a. Provide well-integrated, high quality and evidence-based education on refugee and asylum seeker health, including:
    - i. Enhanced integration of refugee and asylum seeker health teaching into the curriculum integration — preferably case-based learning rather than online modules;
    - ii. Comprehensive understanding of the definitions of refugees and asylum seekers, the traumas they may have experienced, and the mental and physical health risk factors associated with their experiences;
    - iii. Health issues and conditions that are more prevalent within refugee and asylum seeker groups;
    - iv. Appreciating common and culturally significant practices in frequently encountered refugee groups in Australia, including but not limited to trauma-induced psychological conditions;
    - v. Courses on cultural competency embedded in medical students' education to ensure the delivery of culturally competent services;
  - b. Provide opportunities for medical students to improve their intercultural communication skills and provision of culturally competent healthcare throughout their medical degree, including:
    - i. Educating students to deliver health care in a culturally safe manner;
    - ii. Increased opportunities for medical placements at adult and/or paediatric refugee health services which may include;
      - 1. Opt-in opportunities for clinical experiences / rotations for students;
      - 2. Collaborative training with other healthcare disciplines such as nursing, social work, and psychologists;
      - 3. Cultural competency training;
      - 4. Community engagement and volunteering;
      - 5. Research opportunities;
      - 6. Global health experiences such as overseas electives;
    - iii. Call for enhanced teaching through a social prescribing lens which enables students to appreciate the social determinants

of health and recognise ways to support patients to social services;

- iv. Exposure and training in the use of interpreter and translation services;
- v. Informing students about the healthcare facilities and community services that are available for refugees and asylum seekers to utilise; and
- vi. Encouraging medical students to appreciate the social determinants of health specific to refugee communities.

4. Medical Students to:

- a. Undertake opportunities that will help them learn more about refugees and asylum seekers, including but not limited to:
  - i. Upskilling courses on refugee and asylum seeker health;
  - ii. Refugee health education events organised by their university health clubs;
- b. Engage in training to enhance cultural competence and gain a deeper understanding of the needs of refugees and asylum seekers;
- c. Encourage active petitioning and demonstrations to advocate for the health and human rights of refugees and asylum seekers; and
- d. Be aware of medical and support services available to refugees and asylum seekers.

5. Health professionals to:

- a. Ensure that culturally appropriate care is provided to refugees;
- b. Encourage the appropriate use of professional interpreters during consultations with refugees;
- c. Take care to address specific health issues more prevalent in refugee and asylum seeker populations;
- d. Engage in continuous education to educate themselves on health needs of this minority group; and
- e. Advocate for the health and human rights of refugees and asylum seekers.

# Background

## Introduction

The Australian Medical Students' Association (AMSA) is the peak representative body of Australia's 18,000 medical students. AMSA strongly believes that all communities should have the right to high quality, people-centred health services. As such, AMSA takes a proactive stance in advocating for issues that may affect the health outcomes of populations marginalised by the health system, including refugees and asylum seekers.

The 1951 Convention Relating to the Status of Refugees was the first international agreement which established a legal framework for the protection of refugees and their rights. [1] The 1951 Convention, adopted by the United Nations [UN] in 1951, consolidated previous international instruments relating to refugees and is the most comprehensive codification of refugee rights at the international level. [1] The 1951 Convention was updated and amended in the 1967 Protocol Relating to the Status of Refugees. [2] The 1967 Protocol defines refugees as someone who "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection ... or unwilling to return to [that country]." [3] In contrast, an asylum seeker is defined as someone who is seeking refugee status whose application has not yet been processed. [4]

As of May 2023, 146 States have acceded the Convention and 147 States have acceded the Protocol making them the most widely ratified refugee treaties. [5,6]

## Global Response

Refugees and asylum seekers are often supported by a range of organisations, including governmental, non-governmental and international organisations. The United Nations High Commissioner for Refugees [UNHCR] is the principal United Nation [UN] agency responsible for the protection of the rights of refugees. [7] Every year the UNHCR publishes a Global Trend Report that presents key statistics pertaining to refugees, asylum seekers, internally displaced persons and stateless persons worldwide. [8]

The latest report, published in June 2023, reported a substantial growth in the number of forcibly displaced people worldwide, increasing from 42.7 million persons in 2012 to 108.4 million at the end of 2022. [9] Of the 108.4 million, refugees and asylum seekers accounted for 35.1 million and 5.4 million persons respectively. [9] 52% of all refugees originated from just 3 countries: Syrian Arab Republic, Ukraine



and Afghanistan. Low and middle income countries hosted 76% of refugees with 70% of refugees hosted in neighbouring countries. [9] The five top host countries are Türkiye [3.6 million], Islamic Republic of Iran [3.4 million], Colombia [2.5 million], Germany [2.1 million] and Pakistan [1.7 million]. [9] In the following paragraphs, we present the responses of other international communities to refugee and asylum seeker issues, using Germany and Turkey as illustrative examples rather than potential models for Australia's own refugee response.

### In Türkiye:

The Republic of Türkiye [Turkey] is a signatory of the 1951 Geneva Convention relating to the status of Refugees and the 1967 Protocol but ended its open door policy in 2016 and built a wall along its Syrian, Iranian and Iraqi borders. [10,11] Since 2014, Türkiye has implemented its own parliamentary-endorsed national asylum law and temporary protection policies. [10,11] The majority of Türkiye's refugee populations are Syrians fleeing conflict, which meant additional laws were necessary for the protection of displaced peoples using a broader and inclusive approach. [10,11] The Temporary Protection regulations of 2014 granted Syrians identity cards that allowed them to access public health and social services. [10,11] Without these cards, any refugee or asylum claimants are denied access to public care except in the cases of refugee camps or disasters. [10,11]

Since the conflict in Syria was believed to end soon, the initial response of Türkiye to incoming Syrian peoples was liberal. [11] As such, most Syrian refugees were living outside of camps and became 'urban refugees' which resulted in imbalanced migration, as well as greater integration of Syrians in Turkish economies within certain regions. In some cities, Syrians exceeded the local Turkish population causing much concern. [11]

Even though Türkiye accepted a migration deal from European partners in 2016 in exchange for six billion euros, Türkiye's 'safe third country' status for displaced peoples has been controversial. [12] In part, this is due to Türkiye disregarding the non-refoulement principle which disallows asylum claimants from being returned to places where their lives or rights are in danger. [12] In addition, even though the deal states that Türkiye must re-accept all irregular migration from the European Union [EU], Türkiye has been reluctant to accept groups of migrants who have been denied admission into the European Union. Recently, the term 'voluntary return' used by Turkish officials upon deportation of Afghans in 2022 was considered dubious. [12]

### In Germany:

Germany hosts 2.2 million displaced peoples according to UNHCR 's estimates in 2022. [13] Germany also recognizes the 1951 Convention for refugees and has

created a constitutional framework for accepting asylum-seekers. [14] Both refugee and asylum seekers groups consist of individuals who have been displaced from their home countries as a result of being threatened based on their political convictions or identity. In contrast to refugees, asylum seekers can only be considered as such if they have not travelled to Germany via a safe third country. [14] Since almost all European countries are categorised as safe, individuals rarely acquire the status of asylum in Germany. [14] Both refugees and asylum seekers are given a three-year resident status which is revoked if the home country of the individual in question has experienced improvements or is acceptable for return. [14] Those who are displaced due to conflict receive subsidiary protection and residency permits in Germany for one year which can be renewed if there are no reported improvements or positive changes in the home country of that individual. [14]

Germany has been criticised for limiting the rights of asylum seekers and refugees. [15] The implementation of the 2019 'Orderly Return Law' eases deportations for failed asylum seekers but also partially reverses the earlier Integration Law of 2016 requiring employers to prove that jobs offered to non-EU migrants were not first offered to EU or German residents. [15] The current laws require refugees to provide more evidence documenting integration activities. [16] Furthermore, since Germany accepts the Dublin regulation where European Union states can return applicants to the first country they registered in, asylum seekers and refugees are denied the right to choose their country of settlement. However, a recent court ruling in favour of asylum seekers who arrived through Italy recognized that returning claimants to their first country of registration can be detrimental to their livelihood and lead to destitution. [17] This ruling could change the way the Dublin Regulation is enacted throughout Germany.

### Ukraine-Russia Conflict

The Ukraine-Russia war which has been ongoing since 2022 has further exacerbated the refugee crisis in Europe. More than 8 million people have been displaced from Ukraine with the majority being granted temporary protection rights within Europe itself. [18] Poland has accepted around 60% of the refugees with some cities having experienced more than 20% growth in population as a result of this war. [19] The UNHCR has created 'blue dot hubs' within some European countries for refugees specifically fleeing from Ukraine in order to provide information about safe places to stay and other critical settlement support. [20]

As European Union citizens, nationalised Ukrainians are entitled to social assistance, free health care and child supervision as other Polish inhabitants. [19] The European Investment Bank in accordance with the EU's Solidary Package for Ukraine has already established 2 billion pounds for refugee settlement and integration. [19,21] Matching systems for establishing housing networks for

refugees and local organisations have been established by governmental authorities and NGOs. Reception centres have also been erected with some countries choosing to build new centres for refugees separate from pre-existing centres, but there is much variation in the amount of time that refugees are expected to reside in these accommodations. [22] The disparity of staying time can range from 2 to more than 30 days. [22] In addition, some EU countries offer subsidies to private families hosting Ukrainian refugees whereas others do not. [22] The European response to Ukrainian refugees has also been controversial as non-white refugees from Ukraine have been notably denied access into Europe or been treated as second-class citizens. [23,24]

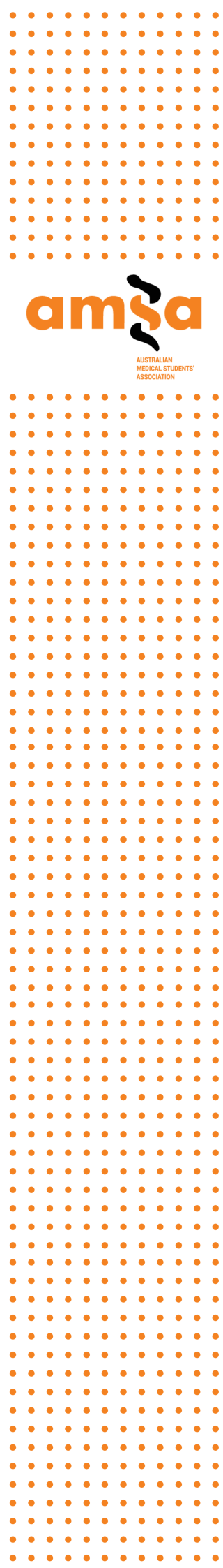
### Global Coordinated Response:

In 2016, the UN General Assembly adopted the New York Declaration for Refugees and Migrants which stated the need for a shared responsibility between states to protect and accept refugees. [25] It is noteworthy that compacts made by the UN subcommittees are not legally binding but serve to reinforce the normative values of members. However, the Dublin regulation which was initiated by European countries as part of the Common European Asylum System (CEAS) in the 1990s is legally enforceable. The Dublin III regulation which came into effect in 2013 establishes the process with which asylum claims are managed within Europe. [26] It is meant to increase the efficiency of the process but also establish an equitable distribution of claimants throughout Europe and inculcate shared responsibility among the hosting countries within Europe. All member states are considered 'safe' and must have processes in place to review claims as well as offer claimants the necessary protections and amenities until their claim has been processed. [26]

Prior to 2020, a provisional agreement was reached within the European Parliament and Council of the EU on reforms to the CEAS but did not receive a consensus among all member states leading to stalled implementations. [27] Upon re-ignition of the discussion on reforms and successful acceptance, a new proposal has been accepted with a Crisis and Force Majeure Regulation where member states can have a greater scope in their ability to assess refugee and asylum groups on a case by case basis if needed as well as enforce the compulsory solidarity principle inherent in the CEAS. [26,27]

The New York Declaration for Refugees and Migrants and its Annex I - the Comprehensive Refugee Response Framework paved the way for the Global Compact on Refugees (GCR). The Global Compact on Refugees is a framework designed to promote responsibility sharing and international cooperation to better support refugees. [28] With over 35% of all refugees being hosted in just five countries, the GRC calls for "more equitable sharing of the burden and responsibility for hosting and supporting the world's refugees". [9,29]





Its four key objectives are: [28]

1. Ease the pressures on host countries;
2. Enhance refugee self-reliance;
3. Expand access to third-country solutions;
4. Support conditions in countries of origin for return in safety and dignity.

Despite not being legally binding, it represents a significant commitment by the international community to improve the lives of refugees and to address the root causes of forced displacement. Since the adoption of the GCR in 2018, the UNHCR has developed a Three-Year Strategy on Resettlement and Complementary Pathways to increase the number of countries offering admission to those in need of international protection. [30] The strategy outlines a blueprint for achieving the GCR's long-term goals which include resettling one million refugees and increasing the number of countries who receive resettlement submissions from 29 to 50 by 2028. [30] Complementary pathways are avenues for persons in need of international protection that provide for a lawful stay in a third country where the international protection needs of the beneficiaries are met. Beneficiaries of complementary pathways are given legal access to a third country through the given pathway, where they can gradually attain a more sustainable permanent status. [30] Such pathways include family reunification procedures, labour mobility pathways, education pathways, humanitarian pathways or private sponsorship pathways. [30] Complementary pathways facilitate access to protection and/or solutions to the three traditional UNHCR durable solutions of voluntary repatriation, local integration and resettlement. [30]

### Health as a Human Right

Refugees and asylum seekers are protected by several international human rights laws. The Universal Declaration of Human Rights (UDHR) was the first internationally agreed statement on the universal protection of fundamental human rights. [31] Adopted by the United Nation General Assembly in 1948, Article 14 of the UDHR states that “everyone has the right to seek and to enjoy in other countries asylum from persecution”. [32] This is further reinforced by the principle of non-refoulement in Article 33 of the 1951 Convention where States “shall expel or return a refugee ... to the territories where his or her life or freedom would be threatened”. [33]

Beyond this, there are nine core international human rights instruments. [34] Three of these protect the rights of displaced persons, including refugees and asylum seekers: [33]

- International Covenant on Civil and Political Rights (ICCPR);
- Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment (CAT);
- Convention on the Rights of the Child (CRC).

### Torture, Cruel or Inhuman or Degrading Treatment of Refugees

Article 7 of the ICCPR, Article 3 of the CAT and Article 37 of the CRC state that no one shall be subjected to torture, cruel or inhuman or degrading treatment. Article 3 of the CAT prohibits a State from “expelling, returning or extraditing a person to another state where there are substantial grounds for believing that he would be in danger of being subjected to torture” complementing Article 33 of the 1951 Convention. [1,33]

### Detention

Article 9 of the ICCPR provides for the right to “liberty and security of person. No one shall be subjected to arbitrary arrest or detention” and in the case of liberty deprivation they must be “treated with humanity and with respect for the inherent dignity”. [35] Article 37 of the CRC calls for the detention of child refugees as a last resort. [36]

### Child Refugees’ Rights

The CRC includes several key right of child refugees: [36]

- Article 3: the obligation to make all decisions with regard to the best interests of the child;
- Article 7: Rights of children to protection, registration after birth, and the right to a nationality;
- Articles 9-10: the obligation not to separate children from their families against their will and to promote family reunification;
- Articles 19 and 34: the obligation to protect children from violence and abuse, including sexual abuse.

This is particularly important as child refugees account for 41% of all displaced persons. [1]

## Australian Refugee and Asylum Seeker Policy

### Timeline of Australian Policy

- 1945: The Department of Immigration is first established. Following the end of World War II, the new department was created to manage the large numbers of displaced persons and refugees who are seeking to migrate to Australia in the aftermath of the war.
- 1954: Australia joins the UN Refugee Protection System.
- 1958: The Migration Act becomes law, becoming the primary legislation that governs immigration and citizenship in Australia.
- 1976: Australian government establishes the first Indo-Chinese refugee program, which aims to resettle refugees from Vietnam, Cambodia, and Laos.
- 1977: In response to the growing number of Indo-Chinese refugees, the Australian government announces the first comprehensive refugee policy in Parliament, known as the Special Humanitarian Program.
- 1976: The first post-war immigration detention centre established.
- 1989: Australia endorses the Comprehensive Plan of Action. This strategy was employed to achieve a durable solution to the problem of the Indo-Chinese outflow.
- 1989: Migration Legislation Amendment Act comprehensively reforms immigration. Establishment of mandatory detention for asylum seekers who arrived in Australia without a valid visa.
- 1992: Migration Reform Act introduced the concept of “unlawful non-citizens”, which expanded the grounds for immigration detention and removal.
- 1999: Safe Havens Enterprise Visa program was first established as part of its refugee policy.
- 2001: Pacific Solution was introduced to deal with a surge of asylum seekers arriving by boat. The policies included mandatory detention, offshore processing of asylum claims and the establishment of detention centres on remote Pacific islands. They were designed to discourage refugee and asylum seeker travel to Australia and prevent illegal human trafficking. [37]

- Oct 18 – Dec 2 2013: The Temporary Protection Visa is briefly reintroduced.
- Dec 14 2013 – Mar 27 2014: Government issues regulation to allow for temporary protection visas.
- Jan - Dec 2014: Humanitarian Concern Visas are introduced.
- Sep 25 – Dec 15 2014: Temporary Protection Visas are introduced into law.
- Mar 22 2017: 12,000 Visa passes are issued to Syrian and Iraqi refugees under the humanitarian program, which included options for both temporary and permanent Visa passes.
- May 21 – Oct 1 2017: The government threatened those seeking asylum with deportation if they did not apply for a temporary protection visa by Oct 1 2017. This was a push to get as many asylum seekers to apply for a visa as possible. [\[38\]](#)
- 2021: Australia announces withdrawal from offshore processing in Papua New Guinea, providing a path for permanent migration or transfer to Nauru. [\[39\]](#)
- May 2018 – April 2022: Individuals are once again invited to apply for a temporary protection visa as a 3 year visa. If they do not apply before their previous visa expires, they are ineligible to apply again.
- Feb 13 2019: Medevac Bill - This bill provided a process for medical evaluation of asylum seekers and refugees from offshore detention centres to be brought to mainland Australia for urgent medical treatment.
- Dec 19 2019: Medevac Bill Repeal - The Medevac Bill was repealed by the Australian government, removing the pathway for urgent refugee medical care.
- 2022: Albanese government is elected to federal parliament, announcing plans to provide permanent pathways for current Temporary Protection Visa and Safe Haven Enterprise Visa holders. [\[40\]](#)
- Feb 14 2023: Temporary Protection Visas and Safe Haven Enterprise Visas are removed from law and all current holders are eligible to apply for a permanent resolution of status [ROS] Visa. ROS visa holders will have the same rights and benefits as all permanent residents with access to family reunion. [\[41\]](#)

- March 2023: Parliament votes against The Migration Amendment (Evacuation to Safety) Bill 2023, which would have moved 150 refugees held in detention in Papua New Guinea and Nauru to Australia for access to medical care while they await resettlement in a different country. [42]

### Offshore Detention

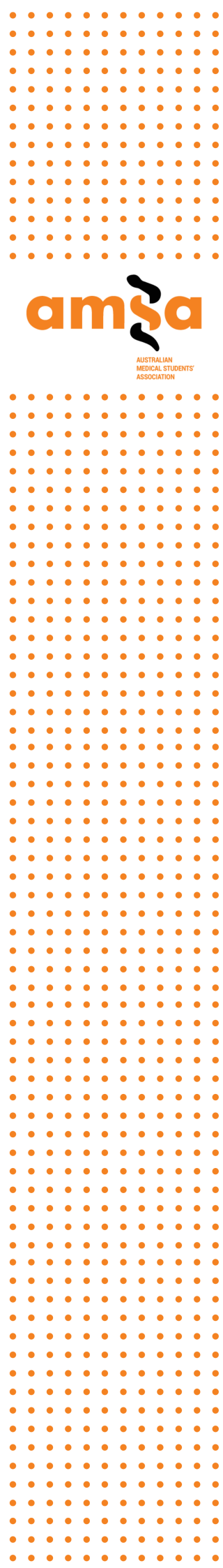
Beginning with its re-establishment in 2012, offshore detention has been a hallmark of Australia's hard-line approach to immigration and border protection policies. The justification of continued investment into offshore processing programs over the last decade by successive federal governments centres on and emphasises the need to deter "people smuggling and irregular migration" in order to "defend against transnational crime" and preserve national security. [43]

However, the effectiveness of such measures in deterring asylum seekers from arriving in Australia by boat remains uncertain. A review conducted by the European Commission on asylum seeker movements in Europe found that conditions in the country of origin were more important indicators of asylum seeker arrivals compared to punitive deterrent policies in destination countries. [44] This finding is consistent with asylum seeker arrivals in Australia. For example in 2013, then Prime Minister Kevin Rudd announced the "No Advantage" policy that aimed to deter refugees arriving by boat by barring them from being granted permanent settlement in Australia. [45,46] Despite a decrease in the number of boat arrivals, more than 1,500 people still arrived in Australia by boat within the first 16 days of this policy's implementation. [45,46]

Despite the humanitarian failures and the political flaws of offshore processing practices, there continues to be significant expenditure by federal governments in the management and operation of offshore processing facilities. According to the 2022-2023 Federal Budget, the Albanese government is forecast to spend \$625 million on offshore processing during this financial year, which is a \$150 million increase in spending compared to the previous budget of the Morrison government over the same time period. [47]

### Onshore Detention

Currently in Australia, it is mandatory under The Migration Act 1958 (Cth) to detain "unlawful non-citizens" who arrive in Australia without a valid visa. [48] Under Australian law, a person can be detained indefinitely unless they are granted a visa or voluntarily leave Australia. [48] As of March 2023, there were 191 people held in immigration detention facilities across Australia for such reasons. [48]



The nature of indefinite detention not only leads to severe mental and physical health impacts, but also incurs a significant financial cost that is imposed upon Australian taxpayers. According to the 2021-2022 Federal Budget, the annual cost to the Australian government of detaining and processing refugees and asylum seekers was estimated to be \$362,000 per person. [45]

### The "Legacy Caseload"

The "Legacy Caseload" refers to the 30,000 asylum seekers who arrived in Australia by boat, between 13 August 2012 and 1 January 2014, and are subjected to unique provisions within Australia's immigration framework. [49] Previously, these asylum seekers were not eligible to apply for any permanent visas until they were formally invited to do so by the Minister. [49] Hence, they were typically granted three-year Temporary Protection Visas (TPVs) and five-year Safe Haven Enterprise Visas (SHEVs), which limited their ability to plan for a future in Australia. [50]

However, since the last iteration of AMSA's Refugee and Asylum Seeker Health policy, the Albanese government passed The Migration Amendment (Transitioning TPV/SHEV Holders to Resolution of Status Visas) Regulations 2023, which allows people holding TPVs and SHEVs to apply for Permanent Resolution of Status (RoS) visas. [51] It is important to note that this change only applies to people who arrived in Australia before the start of Operation Sovereign Borders in late 2013, or those who held or applied for a TPV or SHEV before 14 February 2023. As such, approximately 2,500 people who have their temporary visas cancelled or rejected will be unable to apply for RoS visas. [50]

The justifications for mandatory immigration detention in Australia need to be examined, as they typically centre around protecting borders from increasing arrivals and projected costs, deaths at sea, asylum seekers not following the 'legal' pathway, and security concerns. [52] However, in 2013, only a low number of asylum claims were made, compared to other more economically developed countries and the global context of forced migration. [53] Additionally, the high cost of immigration detention makes it difficult to see it as a 'cost-saving' measure, and avoiding the negative impact of detention is likely to reduce future costs to individuals and the healthcare system. [52] Although there are deaths at sea, it could be argued that the risk of death in a conflict situation is higher than the risk of death at sea. Moreover, the notion of legal and 'illegal' pathways is false, and access to formal resettlement pathways is extremely limited, with less than 1% of the world's refugee population achieving permanent resettlement in a third country. Recent years have seen 88-100% of asylum seekers arriving in Australia by sea with valid refugee claims. [54,55] Detention policies have been applied based on factors such as date, gender, and age, rather than security concerns. [52]

Australia's refugee policy within the Migration Act has evolved to its current state due to a combination of events and factors, including the political environment, which has substantially contributed to the policy's shift towards a more restrictive approach. [56] The focus of the Australian government's current refugee policy is to deter asylum seekers from arriving by boat and to prevent "people smugglers," rather than enacting refugee policies that best uphold Australia's obligations under the Convention and enable it to become a "good global citizen."

The Australian Border Force Act of 2015 contained provisions that prevented immigration and healthcare workers, including doctors, from speaking publicly about conditions in offshore detention centres. [57] The law carried penalties of imprisonment and fines for noncompliance, effectively gagging doctors who wished to speak out about conditions in these centres. [57] The law was criticised by human rights groups, who argued that it violated the rights of whistleblowers and prevented the public from knowing about conditions in these centres. [58]

In response to pressure from healthcare workers, human rights groups, and the Australian public, the Turnbull government backed down on the gag laws in 2016. [58] The changes to the law allowed doctors and other workers to speak out without fear of legal repercussions, as long as they did not reveal "protected information." However, there are concerns that the definition of "protected information" is too broad and could still be used to prevent doctors and healthcare workers from speaking out. [58]

The Border Force Act remains in effect, but the changes to the law represent a significant victory for those who had criticised the gag laws as a violation of free speech and human rights. The changes demonstrate that public pressure can be effective in pushing back against government policies that violate basic rights and freedoms.

## Health of Refugees and Asylum Seekers

*Content Warning: this section discusses topics including sexual assault, self-harm, depression and other mental health conditions.*

### Health Impacts of Detention

The challenges faced by refugees and asylum seekers are not limited to before migration, but rather perpetuate throughout and after migrating as well. [59] A notably higher rate of exposure of negative experiences such as physical and/or

sexual violence, mental and emotional torture, homelessness, starvation, lack of access to health, education and employment, lack of autonomy, and fear of persecution for beliefs and values in their country of origin contribute significantly to pre-migration trauma. [60,61,62] Mandatory detention is a major factor leading to poorer health outcomes. [63] Causes are multifactorial and include substandard living conditions, uncertainty of process and lack of timely accessible healthcare services. [52,62] Presence of widespread child abuse, high prevalence of self-harm and suicidal ideation and attempts, breakdown of families and high exposure of children to extreme violence is detailed in Moss Review. [64] Exposure to such trauma can manifest as PTSD, depressive disorders and anxiety disorders. [65] These adversities, in turn, predispose this population to poorer physical and mental health and wellbeing outcomes. [59]

### Poor Conditions

Living conditions in offshore detention facilities have been extensively critiqued by human rights authorities for human rights violation with refugees and asylum seekers experiencing cruel, inhuman or degrading treatment (CIDT) or torture. [66,67] Poor living conditions are significant contributors to ill health and include but are not limited to use of temporary accommodation such as tents for prolonged stay, overcrowding, limited privacy, extreme weather conditions, presence of vermin and parasites, inadequacy of basic clean water, food, and sanitation facilities, limited provision of clothing and footwear and lack of education and health services. [62,67,68] These conditions are evidenced by a 2013 Amnesty International report which described a Manus Island detention accommodation shed called 'P Dorm,' as measuring 40 metres long and four to five metres wide with no windows or cross ventilation and was used to house 112 people. [66] It was further reinforced by a 2015 Senate Report that noted cases of the presence of extensive mould on tents which contributed to eye and skin infections in Nauru. [68]

Overcrowding and lack of privacy in detention facilities, particularly for women and children can make them more vulnerable to abuse. [64,68] There are rampant rates of physical and sexual violence and assault between detention authorities, staff and detainees, with many cases also involving children. [69] A 2017 Senate Report on Nauru and Manus Regional Processing Centres noted sexual harassment, abuse, exploitation, assault and rape as well as the proposition of sexual favours in return for benefits in detention. [70] In 2016, the Guardian noted over 2000 leaked incident reports of staff in Nauru detention facilities regarding incidents of self-harm, abuse and sexual and physical violence, with more than half involving children. [69] The Moss review discusses underreporting of harassment and physical assault which could be due to family or cultural reasons, but also due to concerns of consequences

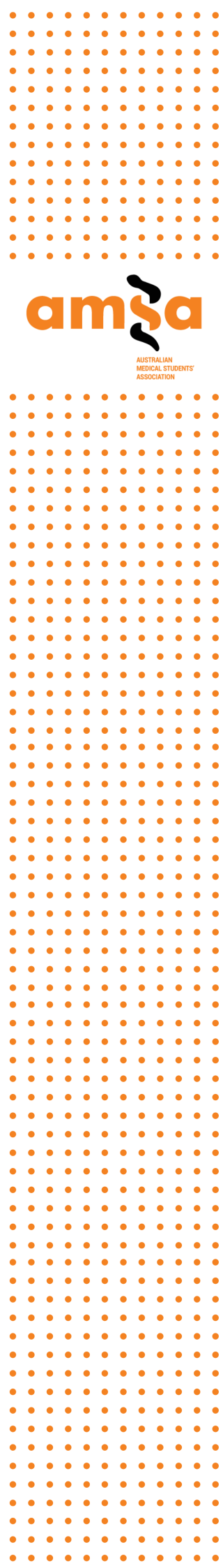


of complaining, particularly when the perpetrator is a staff member or a person of authority. [64,71]

### Lack of Timely Access to Medical and Specialist Care

Lack of timely access to medical and specialist care in offshore detention centres acts as a major systemic barrier in the overall health and wellbeing of detained refugees and asylum seekers. Organisational barriers include lack of training for health workers and students to work with asylum seekers and refugees, lack of interpreting services as well as lack of culturally sensitive and competent care. [72] It is imperative to appreciate the dire need for culturally and linguistically appropriate health services with trauma informed approaches to care for this population to enjoy better health outcomes. At an individual level, language, cultural differences, health literacy and unfamiliarity with the health system of the migrated country can act as a major barrier in access to health. [72,73] It must also be acknowledged that there may also be a number of competing demands which need to be juggled including court hearings or paperwork that prevent an individual from accessing the care that they require. [65] Reluctancy to access healthcare may also be influenced by fear of deportation, particularly due to extensive reporting of health records of refugees and asylum seekers as part of their migration processes. [74]

International Health and Medical Services (IHMS) provide onsite health services in detention facilities and work closely with local hospitals and specialist and allied healthcare providers in the area to provide healthcare for refugees and asylum seekers in offshore detention. [75] A report done in Nauru claims the presence of basic in-patient facilities, with very little access to specialist care, resulting in suboptimal management of more serious and chronic conditions. [76] This means more transfers must be made to mainland Australia for treatment which comes with its own set of challenges; including relevant treatment recommendations being made within reasonable timeframes, the recommendations being cleared by immigration where delayed transfer and lack of required treatment has an increased risk of worsened health conditions or mortality. [76] Since the department of immigration holds authority to decide who is permitted to travel offsite and receive care in mainland Australia, there are many cases where the power of decision making is taken away from clinicians in treatment delivery, largely disempowering the healthcare system in assisting patients to reach their optimal health outcomes. [76] Despite being transferred to mainland Australia or receiving the relevant care they needed offsite, more often than not, refugees and asylum seekers are returned to detention facilities following treatment which is what contributed to their ill health in the first place. [75]



Unfortunately, as people seeking asylum are at greater risk of receiving poorer healthcare provisions and more fragmented care, they are more susceptible to poorer health outcomes. [\[65,77\]](#)

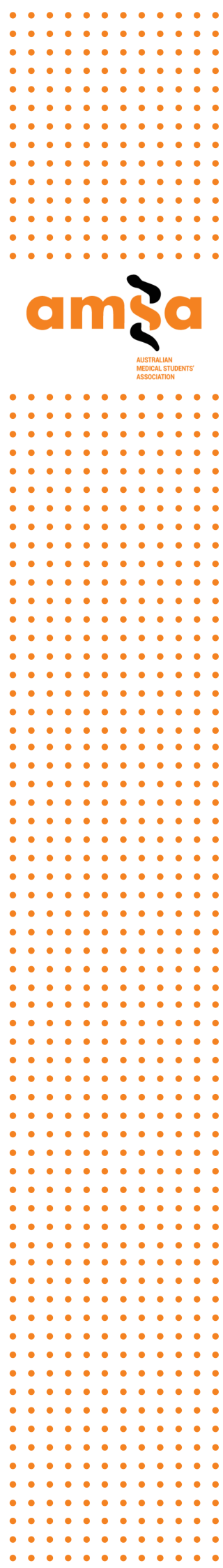
### Worse Mental Health

Pre and post migrational adversities may further compound the stressors suffered by refugee and asylum seeker communities, leading to poorer mental health outcomes. [\[59\]](#) High rates of trauma are a negative impact of immigration detention and consistently demonstrate that asylum seekers who are kept in detention experience high levels of anxiety, depression and PTSD. [\[78\]](#) Longer periods of detention further exacerbate this and there is evidence that asylum seekers who are detained for long periods continue to experience poor mental health sequelae for many years following release. [\[79\]](#) Green and Eager's study of asylum seeker health records suggested that those who were confined in detention for a period of longer than 24 months were 3.6 times more likely to develop new psychiatric illnesses, than those who were detained for a period of less than 3 months (95% CI, 1.1–11.0). [\[80\]](#) Studies reveal that immigration detention facilities aggravate pre-existing mental health issues and prevent detainees from healing from past traumas, reinforcing a strong association between detention and mental illness. [\[81\]](#)

It is important to note that children make up a significant proportion of the refugee and asylum seeker population in Australia. Their cases should be explored with consideration of traumatic experiences during a time of significant development. Exposure to war, conflict, cultural displacement and separation from parents or traditional caregivers, further predisposes them to poor health and long term physical and mental health disorders. [\[65\]](#) Negative mental health impacts on children in detention are often acute with many suffering from significant mental and physical illness and developmental delays. [\[82\]](#)

Detainees at detention facilities show increased rates of self harm and suicidal ideation. Doctors without Borders' statistics reveal that of the 208 refugees aided by them in Nauru between 2017 to 2018, 62% were classified as having 'moderate to severe depression and 65% claimed to have had suicidal ideation and/ or had engaged in self-harm or suicidal attempts. [\[83\]](#). Rigorous and delayed processing of documentation in order to leave detainment premises to access mental health services acts as a major barrier in the effective delivery and access to mental health support. [\[82,83\]](#)

It is imperative to appreciate cultural values when assessing impacts on mental health. There may also be a greater stigma attached to mental illness in some cultures than in western society, influencing the way a person deals with distress



and trauma as well as if they reach out for help when needed. [59] This reinforces the need for culturally competent and sensitive care as well as education on mental health and counselling for refugees and asylum seekers.

### Barriers to Health for Refugee and Asylum Seekers

Refugees and asylum seekers face multiple challenges in accessing healthcare, which can exacerbate health disparities and lead to inadequate treatment of illnesses and diseases. They may struggle to communicate with healthcare providers due to language barriers, leading to them being unable to understand their diagnosis and treatment options [84,85]. Furthermore, cultural barriers—such as a lack of access to female health practitioners for certain refugee and asylum seeker populations—may limit their willingness to engage with healthcare services. [84,86] Cultural differences may also contribute to misunderstandings about health issues and treatment options available, hindering their autonomy. [84,86]

In addition, refugees and asylum seekers may harbor a deep-seated distrust of healthcare professionals due to their involvement in torture and other forms of abuse. This distrust can make it difficult for individuals to seek care, leading to delayed diagnosis and treatment. [87]

### Language and Cultural Barriers

People from refugee or asylum seeker backgrounds may experience barriers accessing health due to cultural or language related issues. Language barriers can reduce access to quality care from general practice through missed opportunities for proactive and appropriate care. [88] In severe cases, misdiagnoses or misunderstandings with serious consequences, including the death of a patient or medical practitioner negligence can also occur. [88,89]

Aery and colleagues argue that the rights allowing individuals access to language interpreters in the justice system should be applied to healthcare contexts. [88,90] Without language assistance, individuals facing language barriers are unable to engage in their treatment, determine risks and benefits of suggested treatment, and/or provide informed consent. [88,91]

The federal government funds the Translating and Interpreting Service (TIS) which provides credentialed interpreters via phone or face-to-face free of charge to medical practices and practitioners for Medicare-funded services. [89] The Royal Australian College of General Practitioners (RACGP) recommends the use of credentialed interpreters in its practice accreditation standards however, uptake has previously been reported low at 1 % of Medicare consultations with patients with limited English

proficiency in Australia. [92] Commonly, family members, friends and relatives or bilingual practice staff continue to be used as interpreters for patients with limited English. [93] This approach compromises quality of care, posing risks to patient safety due to inaccuracy and raises ethical issues such as confidentiality. [93,94]

One study concluded that further effort is needed to reduce the administrative burden and GP's opportunity cost needed to engage interpreters, to provide training for all staff on deciding when and how to work with interpreters and respond to patient concerns about interpreting services. [89] At baseline, 48 % of practices reported using the government funded Translating and Interpreting Service (TIS). [89] The role of reception staff in assessing and recording the language and interpreter needs of patients was well defined but lacked effective systems to share the information with clinicians. [89] After the intervention, the number of practices using the TIS increased. However, family members and friends continued to be used in consultations to interpret. [89] GPs reported that patients preferred this approach and the extra time required to arrange and use interpreting services remained a major barrier. [89]

The recommendations of this study included:

- Conducting research with refugee communities to identify and implement system changes to better integrate interpreter services with healthcare service delivery;
- Increasing health promotion of the importance of translator services vs family members to both individuals from refugee communities and medical staff; [89]
- Ensuring the availability of professional interpreters who are trained in healthcare terminology and cultural nuances to bridge the communication gap between healthcare providers and refugees or asylum seekers; [93]
- Enhancing education and training regarding language barriers for all staff in all roles from receptionists to general practitioners. [89]

### Health Literacy

Health literacy refers to the capacity of individuals to obtain, process, and understand basic health information and services to make informed decisions regarding their health. [95] It encompasses reading, numeracy, communication, and cultural competencies, all of which are crucial for healthcare. [95,96]

Refugees and asylum seekers often face numerous challenges when accessing healthcare services in their host countries. [95] Among these challenges, limited health literacy acts as a significant barrier, impeding their ability to understand and

navigate the healthcare system effectively. [95] This occurs through poor understanding of healthcare information and reduced preventative care.

The refugee experience is characterised by displacement with impaired access to services and basic needs. [97] For resettled refugees, a low health literacy of the health system in their resettlement country is not uncommon, as they navigate a new country, language and culture. [96] Many may have had disrupted education due to spending time in temporary living situations during challenging circumstances, so it cannot be assumed that they have reading ability in their own language. [97] Additionally, due to displacement and potential loss of family members, traditional mechanisms of sharing health information could be disrupted. [97] Consequently, refugees and asylum seekers with low health literacy may struggle to comprehend complex medical terms, follow treatment plans, and make informed decisions about their health, leading to poorer health outcomes. [95,97]

Reduced engagement and understanding of preventative care. According to the AIHW migrant populations in western countries such as Australia engage less in screening and preventative healthcare than the general population, but there is little data specifically regarding refugee populations and why this occurs. [98] Studies in other countries however find that refugee and asylum seeker populations utilised preventative care at lower rates. [98,99] A contributing reason for this could be that sociocultural norms within refugee and asylum seeker backgrounds may feature a reduced perception of need for care, noting that active participation in screening and preventative health are generally poor in low-income countries. [98] One study of Nigerian women found that they viewed prevention, vaccinations and screening for chronic health conditions and cancers as foreign to them as they only thought it was necessary to seek medical assistance in the presence of symptoms. [100] Furthermore, migrants may view health more holistically and incorporate various spiritual practices such as prayer, meditation, celebrations, daily reflections, and listening to sacred songs. Where people's culture influences how they seek out healthcare, cultural notions of health and ill-health may override individual capability and willingness to embrace western models of care. [98]

#### Recommendations:

- Conduct research on and review currently available culturally and linguistically focused health materials from GP pamphlets to web pages. Medical bodies and health organisations should aim to create easily understandable and culturally sensitive health information materials, including brochures, pamphlets, and websites, using plain language and visual aids; [98]

- Co-design of health information materials with refugee and asylum seeker people, peak bodies and NGOs would help ensure effective development and implementation; [98]
- Strengthen interpreter services: Ensure the availability of professional interpreters who are trained in healthcare terminology and cultural nuances to bridge the communication gap between healthcare providers and refugees or asylum seekers; [92]
- Enhance Medical education curriculums: Include training on cultural competency, communication skills, and health literacy in medical programs to improve the delivery of care to diverse populations; [91]
- Community-based health literacy initiatives: Support community organisations and healthcare providers in implementing health literacy programs that target refugees and asylum seekers. These programs can offer workshops, health education sessions, and one-on-one support to enhance health literacy skills; [92]
- Collaborate with refugee communities: Engage refugee communities and organisations in the development and implementation of health literacy initiatives, ensuring their active participation, cultural relevance, and sustainability. [92]

### Financial Disadvantage

Refugees and asylum seekers often experience significant financial disadvantages upon arrival in host countries, which can have profound effects on their health and well-being. Economic hardship and poor health can be mutually reinforcing. For example, poor health increases the likelihood of economic hardship because of decreased opportunities for employment and financial hardship may increase the likelihood of poor health. [101]

Some refugees may experience multiple barriers to financial security including poor language skills, visa restrictions, lack of vocational skills, and qualifications from their country of birth that are not recognized by the host country. [85,102] Research has found that refugees who have restricted access to economic opportunities have poorer mental health outcomes, with unemployment identified as a strong risk factor for anxiety and depression. [102]

Financial disadvantage can impact access to healthcare services. Refugees may have a perception of cost being a barrier for care due to a lack of knowledge of the right to access bulk-billing or other 'no cost' services or, they could be ineligible while they await formalisation of their refugee status. [85] Outside of these services, they may not be able to afford health insurance or out-of-pocket expenses, hindering access to needed healthcare, including preventive care, treatments, and

medications. [101] Reduced social determinants of health is another key consequence of financial disadvantage. By having less ability to afford safe and stable housing, nutritious food, and educational opportunities, which are crucial social determinants of health. [101]

This is further exacerbated by decreased funding via income support for these populations [84]. According to the Asylum Seeker Resource Centre (ASRC), funding for social support services (which includes income support) for asylum seekers across the nation was “gutted” with funding dropping from \$139.8 million in 2017-2018 to \$33 million in 2021-2022. [103] Payments made through Services Australia for Asylum Seeker Support for 2022-23 are expected to be \$15 million, less than half of the \$36.9 million allocated in last year’s Budget. Spending on this vital program has been cut by 95% since 2015-16, from \$300 million to just \$15 million. [104] For 2023-24, \$37 million has been allocated, still a drop from the \$139.8 million in 2017-18. [104] This issue is further exacerbated by cuts to the Status Resolution Support Service (SRSS) which now consider only families with children under six years of age “vulnerable” and hence eligible. Under this new scheme over 8,000 refugees could lose access to income assistance, counselling services, caseworker support, and their homes. This has massive implications for the mental and physical wellbeing of these refugees, who may be forced into extreme poverty as a result of these changes.

#### Recommendations:

- Affordable and comprehensive health access: Ensure that refugees and asylum seekers have access to Medicare and are aware of what they are entitled to, including preventive care, mental health support, and medications. [101,102]
- Financial support and assistance programs: Implement targeted financial assistance programs to alleviate the economic burden faced by refugee and asylum seeker populations, enabling them to afford necessary healthcare and meet basic needs. [85,102]
- Integration support and vocational training: Foster the economic integration of refugees and asylum seekers by providing vocational training, language classes, and job placement support, empowering them to improve their financial stability and access to healthcare. [85,101]
- Collaboration with community organisations: Work closely with community organisations and NGOs to develop initiatives that address financial challenges faced by refugee and asylum seeker populations. [101] This collaboration could include referral mechanisms to financial literacy programs, employment assistance, and social support networks.

## Medical Student Education

There is a growing recognition of the importance of including refugee health in medical student education to address the unique health needs and challenges faced by refugees. In a survey of fourth-year medical students across 12 medical schools in the US, 70.6% of students described insufficient class time dedicated to culturally sensitive care, and 64.5% reported insufficient clinical exposure in caring for immigrants/refugees. [105] The paper found that self-reported student confidence in ability to provide culturally sensitive care to immigrants and refugees were higher in those with more class time on culturally sensitive care, or those with more clinical opportunities to care for immigrants and refugees. [105] More than half respondents reported feeling 'not at all' or only 'sometimes' confident in their ability to provide culturally sensitive care to immigrants/refugees. [105] Through implementing programs and initiatives that increase exposure to refugee populations in medical school programs, medical students can find it easier to become involved and self educate.

There are well-documented benefits of incorporating refugee and asylum seeker health into medical school curricula which include increased knowledge of cultural diversity and improved communication skills. [106] Students are also “more likely to be able to recognize the medical/mental health issues common to refugees, to feel comfortable interacting with foreign born patients. [107] Moreover, increasing understanding of global health within medical school curriculums may better enable identification and treatment of diseases found more specific to refugee populations. By increasing knowledge of global patterns of disease, health system and environmental factors influencing health, clinicians would become better equipped to provide care. [108]

## Steering Away From Detention

Despite the recommendations of detention to be used purely as a last resort, it is frequently used as a strategy to manage the flow of incoming migrants. [109] However, there exists many alternative methods which are not only more humane, but also a more effective allocation of resources. [110] With the availability of more humane approaches, the protection of a country's borders from illegal activity or the control of migrant flow into the country is by no means married to the concept of mandatory detention.

Broadly speaking, an alternative to detention is a form of policy or practice that prevents the detainment of people for reasons related to their migration status. [111] Some of these strategies include release under supervision, release into designated community residences, and release with regular check-ins. Release into the community under these various conditions would enable the government to



maintain regular contact with asylum seekers and provide them with community support while they are waiting for a decision on their refugee status application. Furthermore, traditional approaches to closed detention have also been found to be counterproductive to achieving migrant compliance to immigration outcomes and returns. [111] At the time of writing this policy, there are 321 individuals in community detention, but with 1117 individuals still in closed detention in Australia. [112] Of those, 167 are being detained only because they came seeking asylum by boat. [112]

Examples of alternatives include the Self-Reliance model employed by Uganda, and the Reception System employed by Sweden in handling refugees and Asylum Seekers that enable increased access to community services. Uganda has been renowned as one of the most progressive countries regarding its refugee policies. Uganda's refugee policies have been recognised as being some of the world's most progressive, especially publicly by the BBC in 2016. [113] Here, refugees are given access to healthcare, education, rights to work, and the same social services that Ugandans would have access to. [114] This is thanks to Uganda's Self-Reliance model, which ensures the right to work but to also choose their place of residence. Another significant component is Uganda's assistance model, which ensures that refugees are allocated plots of land for their own use. [115] However, this model does have limitations with its occasional unequal resource distribution due to land shortage, and increased competition amongst refugees for work alongside rising living costs. [116]

In Sweden, refugees and asylum seekers are granted the right to accommodations while they await the outcomes of their migrant application. [117] Asylum seekers are initially brought to an open reception centre for registration and screened for health and other support needs. [111] Under the "Reception System", Sweden provides options for free temporary accommodations within the community in which the person is able to pick. Furthermore, they are provided with a basic income, the right to work, subsidised emergency health and dental care, and free healthcare for children. Regular meetings are held not only for follow up, but for consistent social support and counselling. This model demonstrates how a nation may regulate and monitor refugees and asylum seekers while still providing them essential services and honouring their rights. Problematically, countries with stricter policies regarding incoming refugee and asylum seekers may place a burden on 'safe countries' that are more lenient.

For example, the use of 'safe countries' as a legitimate passage into Europe for refugee claimants can be considered an alternative to the Australian detention centres. [12] In Europe, the establishment of member states or countries as 'safe' for assessing asylum and refugee claims was necessary for greater solidarity and for protecting the claimants as their case was being examined. In addition, the use of temporary protection rights and blue hubs which have been initiated due to the Ukraine-Russia war are examples of how it is possible to grant claimants the chance to be treated with dignity and respect while their claim is being assessed. [25,118] Furthermore, using matching services and offering families the subsidies needed to host refugees or asylum seekers temporarily as observed in the Ukraine crisis in Europe may offer the incentives needed to change the mainstream approach in Australia. [22]



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### Policy Details:

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*Bartholomew Tang, Shaila Dube, Moeza Arona Merchant, David Tran, Rebecca Liu, Maryam Al-Karawi, and Yusuf Wardak; with Anjana Prabu (Global Health Policy Mentor) and Connor Ryan (National Policy Officer)*

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