



Asylum seekers and refugees position statement

1. Purpose

This position statement details a set of 10 enduring principles the Australian Nursing and Midwifery Federation (ANMF) considers every Australian Government should uphold to ensure Australia's obligations under international conventions on the rights of asylum seekers and refugees are met.

2. Definitions

An **asylum seeker** is a person who has fled their own country and applied for protection as a refugee. When asylum is granted, their new home country is prohibited from returning them to the country where they are at risk.

The United Nations' *Convention relating to the status of refugees (the UN Refugees Convention)* defines a **refugee** as a person who is outside their own country and who is unable or unwilling to return because they hold a well-founded fear that if they do, they will be persecuted because of their race; religion; nationality; membership of a particular social group; or political opinion.¹ Every refugee starts out as an asylum-seeker.²

Since 2013, the Australian Government has referred to asylum seekers who arrive in Australia without a valid visa as **illegal maritime arrivals** and **unauthorised air arrivals**.³

3. Context

Australia has obligations to protect the human rights of all asylum seekers and refugees who arrive in Australia, regardless of how or where they arrive, and whether they arrive with or without a visa. This includes upholding their right to not be arbitrarily detained

As a party to the UN Refugees Convention, Australia has agreed to ensure that people who meet its definition of refugee are not sent to a country where their life or freedom would be threatened. The UN Refugees Convention also stipulates access to employment, education, the legal system and civil rights. Some of these obligations also apply to people who have not been found to be refugees.

4. Position

1. It is the position of the ANMF that the following aspects of Australia's current migration laws and policies are not consistent with Australia's human rights obligations in relation to asylum seekers and refugees:
 - the exclusion of territories from Australia's migration zone
 - the use of offshore detention centres
 - the mandatory and indefinite detention of asylum seekers who do not have a valid visa because they arrived without a visa, overstayed their visa, or had their visa cancelled
 - policies that unilaterally determine an individual will never be allowed to settle in Australia
 - the forced removal of asylum seekers who are still waiting for their claim to be processed

¹ United Nations. 1951. Convention relating to the status of refugees. Available at: <http://www.unhcr.org/pages/49da0e466.html>.

² See <https://www.redcross.org.au/act/help-refugees/refugee-facts/#:~:text=They%20may%20have%20been%20resettled,or%20safer%20and%20better%20prospects.>

³ See [https://www.abc.net.au/news/2013-10-21/immigration-minister-scott-morrison-defends-use-of-illegals-term/5035552.](https://www.abc.net.au/news/2013-10-21/immigration-minister-scott-morrison-defends-use-of-illegals-term/5035552)



- the use of deliberately inflammatory language to describe asylum seekers such as 'illegal' or 'unauthorised' arrivals.

Enduring principles

2. It is the position of the ANMF that every Australian Government should uphold the following 10 enduring principles in relation to asylum seekers and refugees:

Rights

1. Every person has the right to seek asylum from persecution, serious human rights violations and other serious harm under the *Universal Declaration of Human Rights* and other international Conventions to which Australia is a party.
2. Every Australian Government must meet its obligation under international law to recognise this right and to ensure all relevant laws and policies give effect to the rights in the Refugee Convention and other instruments such as:
 - the *International covenant on civil and political rights* (the ICCPR)⁴
 - the *Convention against torture and other cruel, inhuman and degrading treatment or punishment* (CAT)⁵
 - the *Convention on the rights of the child* (CROC)⁶
 - the *International covenant on economic, social and cultural rights* (ICESCR).⁷
3. Every Australian Government must ensure all people seeking Australia's protection have their rights upheld and the services they need to meet their basic needs including:
 - publicly funded primary, secondary and tertiary healthcare, including maternity care for pregnant women and babies
 - housing assistance
 - social security payments and employment opportunities in line with those of citizens
 - English language classes
 - family reunion provisions
 - financial support for primary, secondary and higher education, including traineeships for people with low literacy skills
 - full access to the Australian justice system.
4. In relation to healthcare, every Australian Government must ensure that the healthcare provided:
 - is of the same standard as that provided to members of the Australian community
 - includes access to Medicare, the Prescription Benefit Scheme (PBS), and healthcare benefits

⁴ The ICCPR is available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.

⁵ The CAT is available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-against-torture-and-other-cruel-inhuman-or-degrading>.

⁶ The CROC is available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

⁷ The ICESCR is available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>.



- accommodates cultural and language differences and is trauma informed.
5. In relation to healthcare, every Australian Government must ensure:
- information and education is readily available to health practitioners about the health issues experienced by asylum seekers and refugees (for example information about the physical and mental effects of persecution and torture and illnesses not commonly found in Australia)
 - nurses and midwives are equipped to meet their codes of conduct and ethics and professional practice standards in the provision of healthcare and cannot be asked to carry out any procedures, treatments or investigations which compromise those standards.

Processing and assessment

6. Every Australian Government must ensure Australia's migration system is:
- responsive to the needs of people who live in societies where persecution, conflict, poverty, famine, and environmental disasters prevail
 - allows for a responsive and proportionate humanitarian migration quota that takes into account the large and growing number of asylum seekers needing globally
 - ensures the number of refugees accepted annually is not affected by the number of entrants accepted through the humanitarian visa scheme or the number of onshore asylum seeker applications granted permanent residency.
7. Every Australian Government must uphold and implement the existing United Nations High Commissioner for Refugees (UNHCR) process for the assessment of refugee status for all people seeking asylum on Australian territory or entering Australian waters.
8. Every Australian Government must:
- locate detention centres where appropriate services such as healthcare can be easily obtained
 - place asylum seekers in such centres only for the time required to complete health, identity, and security checks, and then house them in the Australian community while they are fast tracked through the immigration process and await the outcome of their refugee application
 - ensure children are not detained but are released swiftly into the Australian community with their principal carer or to appropriate foster care (if unaccompanied and with no relatives in Australia)
 - ensure internationally agreed standards for detention are met with a robust independent scrutiny regime that includes unannounced detention centre visits by the Australian Human Rights Commission, the Commonwealth Ombudsman, and officers from the United Nations Human Rights Commission and the Office of the United Nations High Commissioner for Refugees
9. Every Australian Government must ensure the timely, equitable and transparent processing of refugee claims against international benchmarks as well as a timely and accessible appeal process.



Voluntary repatriation

10. Every Australian Government must ensure:

- voluntary repatriation is safe and dignified and offered only after the asylum seeker has received clear and comprehensive information about it, including the option of an exploratory visit with a guaranteed return to Australia
- there is no coercion associated with voluntary repatriation, including the use of financial incentives – this does not preclude providing financial help for resettlement once the person seeking asylum has chosen to be repatriated.

5. Position statement management

Document type: Position statement	Review process: Federal Executive every three years
Title: Asylum seekers and refugees	Last reviewed: November 2023
Endorsed: November 2004	Next review: November 2026