

# Australia Immigration Detention Data Profile



## Quick Facts

Immigration detainees (2015)	8,588
Detained minors (2017)	145
Immigration detention capacity (2013)	6,252
International migrants (2019)	7,549,270
New asylum applications (2019)	42,232
Number of immigration detainees on a given day (2019)	1,450

## NOTES ON USING THIS PROFILE

- Sources for the data provided in this report are available online at: <https://www.globaldetentionproject.org/countries/asia-pacific/australia>
- "Observation Dates" indicate the timeframe statistical data correspond to or other data were last validated. More than one statistical entry for a year indicates contrasting reports.

STATISTICS					
Detention, expulsion, and incarceration statistics					
		Observation Date			Observation Date
Total number of immigration detainees by year	8,588	2015	Number of immigration detainees on a given day	1,450	2019
	15,694	2014		6,122	2013
	30,895	2013			
	12,967	2012			
	8,874	2011			
	8,749	2010			
	3,977	2009			
Number of persons granted alternatives to immigration detention	587	2015	Total number of detained minors	145	2017
	1,566	2014		154	2016
				1,700	2013
				703	2003
				1,696	2002
				1,923	2001
				976	2000
Number of detained accompanied minors	976	2000	Estimated total immigration detention capacity	6,252 - 8,693	2013
Criminal prison population	39,152	2016	Percentage of foreign prisoners	18.7	2016
	30,775	2013			
	29,383	2012			
Prison population rate (per 100,000 of national population)	162	2016			
	133	2013			
	130	2012			
Demographics and immigration-related statistics					
		Observation Date			Observation Date
Population	25,500,000	2020	International migrants	7,549,270	2019
	23,969,000	2015		6,763,000	2015
	22,900,000	2012		6,468,600	2013
International migrants as a percentage of the population	28.2	2015	Refugees	76,768	2019
	27.7	2013		56,933	2018
				48,482	2017
				42,107	2016
				36,917	2015
				34,503	2014
				30,083	2012

Ratio of refugees per 1000 inhabitants	1.74	2016	Total number of new asylum applications	42,232	2019
	1.51	2015		33,280	2016
	1.34	2012		15,202	2015
	1.1	2011		15,790	2012
Refugee recognition rate	21	2014	Stateless persons	132	2018
				52	2017
				0	2016
				0	2014

## DOMESTIC LAW

### LEGAL TRADITION

Legal tradition	Name	Observation Date
	Common law	

### LAWS AND REGULATIONS

Constitutional guarantees?	Yes/No	Constitution and Articles	Year Adopted	Last Year Amended
	No	The Australian Constitution	1900	1977

### LAWS AND REGULATIONS

Core pieces of national legislation	Name	Year Adopted	Last Year Amended
	Migration Act, 1958	1958	2019

### LAWS AND REGULATIONS

Additional legislation	Name	Year Adopted	Last Year Amended
	Migration Amendment (Urgent Medical Treatment) Bill 2018	2019	
	Maritime Powers Act 2013 (No. 15,2013)	2013	
	Migration Amendment (Unauthorised Maritime Arrivals and Other Measures) Act 2013, No. 35, 2013	2013	
	Australian Border Force Act 2015, No. 40, 2015	2015	

### GROUND FOR ADMINISTRATIVE IMMIGRATION-RELATED DETENTION

Immigration-status-related grounds	Name	Observation Date
	Detention to prevent unauthorised entry at the border	2019
	Detention for unauthorised entry or stay	2019
	Detention to establish/verify identity and nationality	2019

### LENGTH OF DETENTION

Maximum length for administrative immigration detention in law.	Number of Days	Observation Date
	No Limit	2013

LENGTH OF DETENTION				
Longest recorded instance of immigration detention.	Number of Days		Observation Date	
	2555		2005	
LENGTH OF DETENTION				
Average length of detention	Number of Days		Observation Date	
	509		2019	
	350		2014	
PROCEDURAL STANDARDS				
Provision of basic procedural standards	Name	In Law	In Practice	Observation Date
	Information to detainees	Yes		2019
VULNERABLE PERSONS				
Is the detention of vulnerable persons provided in law? Are they detained in practice?	Name	In Law	In Practice	Observation Date
	Unaccompanied minors	Provided	Yes	2019
	Accompanied minors	Provided	Yes	2019
MANDATORY DETENTION				
Mandatory detention	Filter	Name		Observation Date
	Yes	All apprehended non-citizens who do not have proper documentation		2014
	Yes	Persons who request asylum upon arrival at a port of entry		2014
	Yes	Executive discretion		1992

## COVID-19 UPDATES

	Update Status	Observation Date
Latest Update	<p>Despite recommendations from infectious disease experts, medical professionals, civil society, and international human rights observers to reduce detainee populations (see 26 April update), the numbers of non-nationals detained in Australia have increased during the pandemic. This is according to the country's Commonwealth Ombudsman, Michael Manthorpe, who warned, "There is a risk that upward pressure on numbers in detention will continue in the medium term. This will make adherence to CDNA Guidelines harder and increase the risk should COVID-19 virus occur in one of the facilities. ... It has become apparent in other residential settings that just one mishap can lead to a serious outbreak in facilities where large numbers of people are housed in close proximity to one another. For example, a person without symptoms could innocently bring the virus into a facility without their knowledge. ... All this being so, we consider that it would be highly desirable for fewer people to be held in immigration detention." This assessment followed the completion of the Ombudsman's investigation into the management of Covid-19 risks in Australia's immigration detention estate. Aside from the rising numbers of persons in detention, he noted - amongst other points - that although screening was generally in place in most facilities, in several centres there was no oversight of persons exiting the premises. The Ombudsman also flagged the failure to implement compound separation in at least one facility - a failure which resulted in detainees from different compounds using the same communal facilities at the same time. Some positive points, however, were also noted. These included the fact that facility staff had clearly messaged to detainees that they are able to access personal effects and entertainment during periods of medical isolation - an important policy to help alleviate any reluctance amongst detainees to self-report, given fears of isolation during testing. This investigation was prompted by a complaint lodged by the Public Interest Advocacy Centre (PIAC) in May on behalf of 14 men held in onshore detention facilities. The men were unable to follow public health advice and practice social distancing in overcrowded detention centres, and their complaint called for an urgent inspection of detention sites in order to assess the adequacy of detention conditions during the crisis. What this investigation did not refer to, however, was the country's proposed new law that will see mobile phones banned in onshore detention facilities. According to Australia's Immigration Minister, who described mobiles as an "unacceptable risk," this ban is necessary to stop the spread of drugs and contraband items in detention centres. Civil society and NGOs have challenged the proposed policy, arguing that phones are a "lifeline" for detainees - particularly due to their role in helping to support persons' mental health and wellbeing. With visits suspended during the Covid-19 crisis, mobile phones have played an even greater role for many detainees in the past few months, helping to prevent acute isolation.</p>	2020
	<p>Despite growing calls from a broad range of actors - including civil society, medical professionals, infectious disease experts, Australia's Human Rights Commissioner, and detainees themselves--the Australian government had still not taken steps to release vulnerable detainees as of late April. The government has acknowledged that those in correctional and detention settings are most at risk. However, immigration detention measures continue to be imposed even as some refugees previously detained on Manus Islands and Nauru are now detained in Australian hotels. Protests are reportedly taking place almost daily in detention facilities. One Afghan refugee held in a Melbourne hotel was quoted as saying, "We should be free, we should be released in the community for self-isolation. This is not self-isolation. They are closing the clubs, the bars, the pubs, the gyms, everything ... but what about here? We are like some kind of animals?" On 22 April, a chronically ill refugee held in Australian immigration detention launched a case in the high court seeking his release into the community in a bid to protect him from the virus. Represented by lawyers from Australia's Human Rights Law Centre, the individual is challenging his detention on the grounds that the Australian government is breaching its duty of care by failing to establish conditions that would allow him to comply with public health guidelines on social distancing. Reportedly, this is the first of "many" cases that may be brought forward.</p>	2020
	<p>1,100 Australian healthcare professionals have co-signed a letter to the Home Affairs Minister, Peter Dutton, calling for all refugees and asylum seekers to immediately be released from immigration detention. "Failure to take action to release people seeking asylum and refugees from detention will not only put them at greater risk of infection and possibly death," it stated. "It also risks placing a greater burden on wider Australian society and the health care system."</p>	2020
	<p>Numerous civil society organisations have issued calls for the release of immigration detainees in Australia, which took on new urgency after a private security guard at an ad hoc detention centre in a hotel in Brisbane tested positive for Covid-19 in mid-March. On 23 March, asylum seekers in detention across Australia wrote an open letter to the prime minister pleading for their release into the community. The detainees wrote: "It is only a matter of time before it will breach our closed environment ... we are sitting ducks for Covid-19 and are extremely exposed to becoming severely ill, with the possibility of death." A Jordanian refugee detained in Villawood detention centre in Sydney reported that the crowded detention centre made it impossible to keep four square meters apart from one another and that there was a lack of soap and hand sanitiser available to detainees. Another detainee said the situation was similar at the Kangaroo Point Hotel in Brisbane. Although a guard at the hotel tested positive for Covid-19, none of the detainees were tested and the Australian border force told detainees that they "don't have kits to test everyone." On 27 March 2020, the Home Affairs Department rejected calls to release detainees, claiming: "Infection control plans are in place and plans to manage suspected cases of COVID-19 have been developed and tested. Detainees displaying any COVID-19 symptoms may be quarantined and tested in line with advice from health officials and in accordance with the broader Commonwealth response."</p>	2020

## INTERNATIONAL LAW

### Relevant international treaties and date of ratification

International treaties	Name	Ratification Year
	OPCAT, Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	2017
	OPCRPD, Optional Protocol to the Convention on the Rights of Persons with Disabilities	2009
	CRPD, Convention on the Rights of Persons with Disabilities	2008
	CTOCTP, Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	2005
	CTOCSP, Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime	2004
	CRC, Convention on the Rights of the Child	1990
	CAT, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	1989
	CEDAW, Convention on the Elimination of All Forms of Discrimination against Women	1983
	ICCPR, International Covenant on Civil and Political Rights	1980
	ICESCR, International Covenant on Economic, Social and Cultural Rights	1975
	ICERD, International Convention on the Elimination of All Forms of Racial Discrimination	1975
	PCRSR, Protocol to the Geneva Convention Relating to the Status of Refugees	1973
	CRSSP, Convention Relating to the Status of Stateless Persons	1973
	VCCR, Vienna Convention on Consular Relations	1973
	CRSR, Geneva Convention Relating to the Status of Refugees	1954
Ratio of relevant international treaties ratified	15/19	

### Relevant international treaties and date of ratification

International treaty reservations	Name	Reservation Year	Observation Date
	CRC Article 37	1990	1990
	ICCPR Article 10	1980	1980
	ICCPR Article 14	1980	1980

### Relevant international treaties and date of ratification

Individual complaints procedure	Name	Acceptance Year
	CRPD, Optional Protocol to the Convention on the Rights of Persons with Disabilities	2008
	ICCPR, First Optional Protocol to the International Covenant on Civil and Political Rights, 1966	1991
	CAT, declaration under article 22 of the Convention	1989
	CEDAW, Optional Protocol to the Convention on the Elimination of Discrimination against Women, 1999	1983
	ICERD, declaration under article 14 of the Convention	1975

Relevant international treaties and date of ratification			
Ratio of complaints procedures accepted	Number		Observation Date
	5/6		
	5/6		
Relevant international treaties and date of ratification			
Treaty bodies decisions on individual complaints	Name	Case Details	Observation Date
	Human Rights Committee	Bakhtiyari v Australia, UN Human Rights Committee Communication No 1069/2002, CCPR/C/79/D/1069/2002, 29 October 2003, para 9.7	2003

## Relevant international treaties and date of ratification

	Name	Recommendation Excerpt	Recommendation Year
Relevant recommendations issued by treaty bodies	Committee on Economic, Social and Cultural Rights	14. (c) Ensure that private companies, such as the service providers in the regional processing centres in Nauru and Papua New Guinea, comply with their human rights obligations; (d) Reinforce effective mechanisms to investigate complaints filed against private companies and take effective measures to ensure access to justice for victims;	2017
	Committee against Torture	<p>§11 [...] The State party should strengthen its efforts to bring the conditions of detention in all places of deprivation of liberty into line with relevant international norms and standards, including the Standard Minimum Rules for the Treatment of Prisoners and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (Bangkok Rules), in particular by: [...] (b) ensuring that adequate somatic and mental health care is provided for all persons deprived of their liberty, including those in immigration detention.</p> <p>§16. [...] The State party should adopt the necessary measures with a view to considering: (a) repealing the provisions establishing the mandatory detention of persons entering its territory irregularly; (b) ensuring that detention should be only applied as a last resort, when determined to be strictly necessary and proportionate in each individual case, and for as short a period as possible; and (c) establishing, in case it is necessary and proportionate that a person should be detained, statutory time limits for detention and access to an effective judicial remedy to review the necessity of the detention. It should also ensure that persons in need of international protection, children and families with children are not detained or, if at all, only as a measure of last resort, after alternatives to detention have been duly examined and exhausted, when determined to be necessary and proportionate in each individual case, and for as short a period as possible. The State party should also continue and redouble its efforts with a view to expanding the use of alternatives to closed immigration detention. It should also adopt all necessary measures to ensure that stateless persons whose asylum claims were refused and refugees with adverse security or character assessments are not held in detention indefinitely, including by resorting to non-custodial measures and alternatives to closed immigration detention.</p> <p>§17 [...] The State party should adopt the necessary measures to guarantee that all asylum seekers or persons in need of international protection who are under its effective control are afforded the same standards of protection against violations of the Convention regardless of their mode and/or date of arrival. The transfers to the regional processing centres in Papua New Guinea (Manus Island) and Nauru, which in 2013 were deemed by the Office of the United Nations High Commissioner for Refugees not to provide "humane conditions of treatment in detention", do not release the State party from its obligations under the Convention, including prompt, thorough and individual examination of the applicability of article 3 in each case and redress and rehabilitation when appropriate.</p>	2014
	Committee on the Rights of the Child	<p>§32 [...] pay particular attention to ensuring that its policies and procedures for children in asylum seeking, refugee and/or immigration detention give due primacy to the principle of the best interests of the child.</p> <p>§81 [...] (a) Reconsider its policy of detaining children who are asylum-seeking, refugees and/or irregular migrants; and, ensure that if immigration detention is imposed, it is subject to time limits and judicial review; [...] (d) Adhere to its High Court ruling in Plaintiff M70/2011 v. Minister for Immigration and Citizenship, and, inter alia, ensure adequate legal protections for asylum seekers and conclusively abandon its attempted policy of so-called "offshore processing" of asylum claims and "refugee swaps"; and evaluate reports of hardship suffered by children returned to Afghanistan without a best interests determination.</p>	2012
	Committee on the Elimination of Racial Discrimination	§24 [...] (a) Review its mandatory detention regime for asylum-seekers with a view to finding an alternative to detention, ensuring that the detention of asylum-seekers is always a measure of last resort and is limited by statute to the shortest time reasonably necessary, and that all forms of arbitrary detention are avoided;	2010
	Human Rights Committee	<p>§ 23[...] (a)consider abolishing the remaining elements of its mandatory immigration detention policy; (b) implement the recommendations of the HumanRights andEquality Commissionmade in its ImmigrationDetention Report of 2008; (c)considerclosing down the Christmas Island detention centre; and (d)enact in legislation a comprehensive immigration framework in compliance with the Covenant.</p> <p>§ 24 [...] ensure thatchildren in conflict with the law, including those in detention, are treated in consistence with the Covenant and the UnitedNations Rules forthe Protection of Juveniles Deprived of theirLiberty. The State party should implement the recommendations of the HumanRights andEqualOpportunity Commission in this regard. The situation ofchildren in detention should be addressedwithin the State party's proposed newchild protection framework.</p>	2009
	Committee against Torture	<p>§ 11[...] a) Consider abolishing its policy of mandatory immigration detention for those entering irregularly the State party's territory. Detention should be used as a measure of last resort only and a reasonable time limit for detention should be set; furthermore, non-custodial measures and alternatives to detention should be made available to persons in immigration detention; (b) Take urgent measures to avoid the indefinite character of detention of stateless persons.</p> <p>§12 [...] The State party should end the use of "excised" offshore locations for visa processing purposes in order allowall asylum-seekers an equal opportunity to apply for a visa.</p> <p>§ 22 [...] The State party should ensure thateducation and training of all immigration officials and personnel, including health service providers,employed at immigration detention centres, are conducted on a regular basis. The State party should also regularly evaluate the training provided.</p> <p>§ 26 [...] With the objective of improving protection of asylum-seekers, the State party should ensure that the Immigration Detention Standards be codified into legislation and provide for an independent monitoring mechanism.</p>	2008
	Committee on the Rights of the Child	64. The Committee recommends that the State party implement the recommendations contained in the HREOC report "A Last Resort?", and bring its immigration and asylum laws fully into conformity with the Convention and other relevant international standards, taking into account the Committee's general comment No. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin. In particular, the State party should: (a) Ensure that children are not automatically detained in the context of immigration and that detention is only used as a measure of last resort and for the shortest appropriate period of time; (b) Seek an assessment by a court or an independent tribunal within 48 hours of the detention of a child in the context of immigration of whether there is a real need to detain that child; (c) Improve considerably the conditions of children in immigration detention when such detention is considered necessary and in the best interests of the child, and bring them into line with international standards; (d) Guarantee periodic review of the detention of children detained in the context of immigration;	2005
	Human Rights Committee	<p>526. The Committee considers that the mandatory detention under the Migration Act of "unlawful non-citizens", including asylum seekers, raises questions of compliance with article 9, paragraph 1, of the Covenant, which provides that no person shall be subjected to arbitrary detention. The Committee is concerned at the State party's policy, in this context of mandatory detention, of not informing the detainees of their right to seek legal advice and of not allowing access of non-governmental human rights organizations to the detainees in order to inform them of this right.</p> <p>527. The Committee urges the State party to reconsider its policy of mandatory detention of "unlawful non-citizens" with a view to instituting alternative mechanisms of maintaining an orderly immigration process. The Committee recommends that the State party inform all detainees of their legal rights, including their right to seek legal counsel.</p>	2000



Non treaty-based international human rights mechanisms			
Relevant recommendations of the UN Universal Periodic Review	Recomendation Issued	Year Issued	Observation Date
	Yes	2011	2017
	Yes	2016	2017

Institutional Indicators					
Institutions responsible for immigration detention					
Custodial authority	Agency	Ministry	Ministry Typology	Observation Date	
		Department of Immigration and Border Protection	Immigration or Citizenship	2008	
		Department of Immigration and Border Protection	Immigration or Citizenship	2007	
		Department of Immigration and Border Protection	Immigration or Citizenship	2005	
		Department of Immigration and Border Protection	Immigration or Citizenship	2004	
		Department of Immigration and Border Protection	Immigration or Citizenship	2002	
Institutions responsible for immigration detention					
Apprehending authorities	Name		Agency	Ministry	Observation Date
	Australian Border Force (Ministry of Home Affairs)		Immigration agency		
Institutions responsible for immigration detention					
Detention Facility Management	Entity Name		Entity Type	Observation Date	
	Immigration and Border Protection Ministry, Australia		Governmental	2015	
	Australian Ministry of Immigration and Border Protection		Governmental	2015	
	Group 4 Falck Global Solutions Limited Australia		Private For-Profit	2008	
	Group 4 Falck Global Solutions Limited		Private For-Profit	2008	
	Group 4 Falck Global Solutions Limited Australia		Private For-Profit	2007	
	Queensland Department of Corrective Service		Governmental	2005	
	Australasian Correctional Management Pty Ltd		Private For-Profit	2004	
	Australasian Correctional Management Pty Ltd		Private For-Profit	2002	
Detention monitoring institutions					
Authorized monitoring institutions	Institution		Institution Type		Observation Date
	Australian Human Rights Commission, (formerly known as the Human Rights and Equal Opportunity Commission)		National Human Rights Institution (or Ombudsperson) (NHRI)		2013
	Commonwealth Ombudsman		National Human Rights Institution (or Ombudsperson) (NHRI)		2013
Detention monitoring institutions					
Is the national human rights institution (NHRI) recognized as independent?	Is the NHRI recognized as independent by the International Coordinating Committee of National Human Rights Institutions?				Observation Date
	Yes				2013

Detention monitoring institutions		
Does NHRI carry out visits?	Does NHRI carry out visits in practice?	Observation Date
	Yes	2013
Detention monitoring institutions		
Does NHRI have capacity to receive complaints?	Does NHRI have capacity to receive complaints?	Observation Date
	Yes	2013
Detention monitoring institutions		
Does NHRI publicly release reports on immigration detention?	Does NHRI publicly release reports on immigration detention?	Observation Date
	Yes	2013

More information about immigration detention in Australia is available at the website of the Global Detention Project ([www.globaldetentionproject.org](http://www.globaldetentionproject.org))