



Migration Amendment (Removal and Other Measures) Bill 2024

April 2024



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Table of Contents

Our Commitment to Inclusion	iv
Executive Summary.....	v
Summary of Recommendations.....	vi
1 Enhancing Legislative Equality	1
<i>Upholding Australia’s International Obligations</i>	<i>1</i>
<i>Preventing Criminalisation of People Seeking Protection</i>	<i>2</i>
2 Addressing Hardship and Disadvantage.....	4
<i>Minimising Trauma</i>	<i>4</i>
<i>Reducing Disadvantage</i>	<i>5</i>
3 Conclusion	7
Appendix A About The Salvation Army	8





Our Commitment to Inclusion

The Salvation Army Australia acknowledges the Traditional Owners of the land on which we meet and work and pay our respect to Elders, past, present and future.

We value and include people of all cultures, languages, abilities, sexual orientations, gender identities, gender expressions and intersex status. We are committed to providing programs that are fully inclusive. We are committed to the safety and wellbeing of people of all ages, particularly children.

Our values are:

- Integrity
- Compassion
- Respect
- Diversity
- Collaboration

Learn more about our commitment to inclusion: <salvationarmy.org.au/about-us>

The Salvation Army is an international movement and our mission is to preach the gospel of Jesus Christ and to meet human needs in his name without discrimination.

More information about The Salvation Army is at **Appendix A**.





Executive Summary

The Salvation Army welcomes the opportunity to provide this submission to the Senate Legal and Constitutional Affairs Committee in response to the Migration Amendment (Removals and Other Measures) Bill 2024 (the Bill).

The Salvation Army provides a variety of social support services across Australia, which support people experiencing the most disadvantage. Amongst others, we support refugees and asylum seekers who experience extreme hardship and marginalisation.

The Salvation Army stands in strong support of efforts to eliminate persecution and displacement, through the promotion of compassion, understanding and respect for human life and dignity. We hold grave concerns for the many people who flee their homes, as a result of persecution, violence, and armed conflict. We hold the firm belief that people seeking protection should be offered support and assistance to settle and integrate into Australian communities.

This submission responds to the Bill and explores the following impacts of legislation for refugee and asylum seeker communities across Australia:

- Risk of refoulement for those with protection claims rejected through Fast-Track,
- Compounding trauma due to prolonged processes and family separation, and
- Exacerbating disadvantage through migration process barriers and criminalisation.

The Salvation Army supports a legislative model which is rights focused, equitable and allows all people to live with dignity and free from discrimination.

The Salvation Army has made **4** recommendations for the Senate Legal and Constitutional Affairs Committee to consider. A summary of these recommendations follows on the next page.



Summary of Recommendations

Recommendation 1

1.7 The Salvation Army recommends that the Migration Amendment (Removal and Other Measures) Bill 2024 not be passed.

Recommendation 2

1.9 The Salvation Army recommends that the Australian Government commit to legislative reform which is equitable, non-criminalising, and upholds the rights and dignity of refugee and asylum seekers who seek protection.

Recommendation 3

1.10 The Salvation Army recommends that the Australian Government work to address systemic, legislative discrimination by taking a strengths-based, rights focused and multicultural approach to legislation and policies surrounding refugees, and asylum seekers.

Recommendation 4

2.6 The Salvation Army recommends that the Australian Government commit to shaping legislative and policy reform which is compassionate, proportionate and trauma-informed. This should include meaningful consultation with individuals and communities who have lived experience.



1 Enhancing Legislative Equality

- 1.1 The Salvation Army affirm our strong support for legislative and administrative processes being equitable, just, and non-discriminatory. We believe it to be a necessity that all asylum seekers and refugees who seek protection be afforded dignity and compassion.
- 1.2 Alongside legal, human rights, and social service advocates in Australia, we strongly oppose the implementation of the proposed Migration Amendment (Removal and Other Measures) Bill 2024 (the Bill).¹

Upholding Australia's International Obligations

- 1.3 The Salvation Army supports a rights-respecting approach for the treatment of all people who travel to Australia in search of protection. All levels of Australian Government are responsible for ensuring legislative and administrative processes be implemented such that they respect and uphold these rights, based on international guidelines.²
- 1.4 Australia is party to the Convention Relating to the Status of Refugees (Refugee Convention) which creates minimum standards and broad obligations surrounding the fair and humane treatment of refugees.³ Under this framework, people seeking protection cannot be discriminated against or penalised on the basis of seeking asylum.⁴

Protecting Against Refoulement

- 1.5 The Salvation Army draws attention to the significant risks the Bill creates for those who have been rejected through the Fast-Track assessment process and currently sit in limbo, without access to basic rights. Many of the people supported by The Salvation Army fall into this group and struggle to live a life with dignity in Australia with limited access to employment, food, shelter, and healthcare. Now abolished, the Fast-Track process is well known to have failed in providing “*fair, thorough and robust*” assessments.⁵ Many genuine refugee claims for protection have been denied as a result.⁶

¹ Human Rights Law Centre. (2024). *Albanese Government's Punitive Proposal Will Endanger People's Lives*. <https://www.hrlc.org.au/news/2024/03/26/punitive-laws>.

² Australian Human Rights Commission. (2023) *Australia's International Obligations*. <https://humanrights.gov.au/node/17639>.

³ *Convention Relating to the Status of Refugees*, opened for signature 28 July 1951, 189 UNTS 150 (entered into force 22 April 1954).

⁴ *Ibid*.

⁵ Australian Labor Party (2021). *ALP National Platform*. <https://alp.org.au/media/2594/2021-alp-national-platform-final-endorsed-platform.pdf>; UNSW Kaldor Centre for International Refugee Law. (2022). *Research Brief: 'Fast Track' Refugee Status Determination*. https://www.unsw.edu.au/content/dam/pdfs/unsw-adobe-websites/kaldor-centre/2023-09-research-briefs/2023-09-Research-Brief_Fast-track_final.pdf.

⁶ UNSW Kaldor Centre for International Refugee Law. (2024). *Kaldor Centre Statement on New Migration Bill*. https://www.unsw.edu.au/news/2024/03/Kaldor-Centre-statement-deportation-bill?mc_cid=179ef6ee17&mc_eid=2e061508b7.





- 1.6 The principle of non-refoulement which prohibits expulsion of a person if their life or freedom is under threat. It is a cornerstone protection within the Refugee Convention, and a fundamental part of Australia's obligations to asylum seekers and refugees.⁷ The Salvation Army hold grave concerns that the Bill presents an unacceptable risk for those who have not been provided a fair assessment through the Fast Track process who may be forced to cooperate with and facilitate their own deportation, regardless of their genuine need for protection.

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“If I return to Iran, I will go to prison but maybe first I can see my son. He was 12 when I left, now he is a man. I want to see my son. I will die in the prison but at least I will see my son. Here? I have no hope.”

”

- An Asylum Seeker supported by The Salvation Army

Recommendation 1

- 1.7 The Salvation Army recommends that the Migration Amendment (Removal and Other Measures) Bill 2024 not be passed.**

Preventing Criminalisation of People Seeking Protection

- 1.8 The Salvation Army urge the critical need to prevent excessive and undue criminalisation of people seeking protection in Australia. We recognise and hold concerns that the Bill will permit unequal treatment of asylum seekers and refugees and that this legislation is untenable for the following reasons:
- **Eliminating discrimination.** The Salvation Army identifies the need to prevent any form of discrimination when implementing legislative reform. Legislation must ensure that all people are equal under the law and that their basic human rights are upheld⁸ without discrimination based on of race, colour, national or ethnic origin.⁹ The broad expansion of Ministerial powers contained within the Bill permitting ‘travel bans’ and blanket prohibitions for visa applications from designated countries (including for persons seeking protection), are discriminatory in nature. The Salvation Army holds serious concerns about the lack of adequate safeguards to prevent unwarranted limitations on the right to non-discrimination, alongside the Bill’s proposed expansion of Ministerial power.

⁷ *Convention Relating to the Status of Refugees*, opened for signature 28 July 1951, 189 UNTS 150 (entered into force 22 April 1954).

⁸ Australian Human Rights Commission. (Undated). *Legislation*. <https://humanrights.gov.au/our-work/legal/legislation>.

⁹ *International Covenant on Civil and Political Rights*, opened for signature 19 December 1966, 999 UNTS 171 (entered into force 23 March 1976); *Racial Discrimination Act 1975* (Cth).





- **Enhancing fair process.** The Salvation Army supports the implementation of legislation which promotes clear, timely and equitable processes in line with Australia’s commitment to upholding the rule of law.¹⁰ In our experience, many people seeking protection have trouble navigating current legislative and administrative processes as they are complex and unclear. During the process, many people seeking protection have limited access to basic needs and experience significant financial and emotional hardship. The Salvation Army fears that this Bill will make processes which are already protracted, punitive and lack transparency more challenging for asylum seekers and refugees. This is likely to cause additional trauma and will ultimately operate in conflict with the rule of law.
- **Minimising criminal justice engagement.** The Salvation Army draws particular attention to the risk of implementing broad criminal offences which carry a significant minimum term of imprisonment for people who do not cooperate with deportation-related directions. In our experience, government processes to obtain protection are confusing and often inaccessible for refugees and asylum seekers. This results in feelings of uncertainty and apprehension around what is required to progress through the migration process. We fear the Bill’s inclusion of a non-cooperation criminal offence will have significant, unintended consequences for actions which may not form intentional transgressions. Under the Bill, failing to apply for, sign or submit a document, or being medically unable to facilitate removal becomes criminal and is punished with a mandatory minimum imprisonment of twelve months. We hold grave concerns about the severity of this punishment despite such actions not necessarily forming deliberate attempts to resist removal.

Recommendation 2

- 1.9 The Salvation Army recommends that the Australian Government commit to legislative reform which is equitable, non-criminalising, and upholds the rights and dignity of refugee and asylum seekers who seek protection.**

Recommendation 3

- 1.10 The Salvation Army recommends that the Australian Government work to address systemic, legislative discrimination by taking a strengths-based, rights focused and multicultural approach to legislation and policies surrounding refugees, and asylum seekers.**

¹⁰ Australian Government Attorney-General’s Department. (Undated) *Rule of Law*. <https://www.ag.gov.au/about-us/what-we-do/rule-law#:~:text=The%20rule%20of%20law%20underpins,to%20the%20benefit%20of%20laws>.



2 Addressing Hardship and Disadvantage

2.1 The Salvation Army urges the critical need for legislation and government processes for persons seeking protection to be supportive and to minimise ongoing experiences of trauma and hardship. We identify the need to reduce barriers to allow refugees and asylum seekers to live a life with dignity.

Minimising Trauma

2.2 The Salvation Army holds concerns about the broad powers permitted under the Bill and recognise the following to be likely unintended and traumatic impacts:

- **Separating children and families.** The Salvation Army have seen the devastating impact of children and families torn apart through migration processes and immigration detention. Evidence demonstrates that the extreme distress caused by the separation of families and children who are seeking protection results in more frequent experiences of mental ill-health.¹¹ We fear that in its current form, the proposed Bill condones further government directed separation of families where the Minister can direct a person to be removed regardless of the impact to their family or loved ones. Many of the people we support also fear the imposition of travel bans under the Bill which will mean that family members living overseas may be prevented from visiting relatives in Australia.
- **Intensifying fear and uncertainty.** Experiences of fear and insecurity are frequently reported amongst people supported by The Salvation Army, both pre and during migration processes. In our experience, refugees and asylum seekers who are seeking protection face many years of uncertainty and fear due to long and confusing migration processes. Lengthy delays and systems which lack transparency exacerbate experiences of psychological distress, and significantly impact the wellbeing of persons seeking protection.¹² We fear that the undue criminalisation of refugees under the proposed Bill, will worsen experiences of uncertainty, fear, and confusion, and will cause significant detrimental impacts on the wellbeing of persons seeking protection.

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“It is exhausting. We go around and around for 20 years. Why is life so hard?”

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- An Asylum Seeker supported by The Salvation Army

¹¹ Ali-Naqvi, O., Alburak, T., Selvan, K., Abdelmeguid, H. & Malvankar-Mehta, M. (2023). Exploring the Impact of Family Separation on Refugee Mental Health: A Systematic Review and Meta-narrative Analysis. *Psychiatric Quarterly*, 94(1), 61-77. <https://doi.org/10.1007/s11126-022-10013-8>.

¹² Kenny, M., Procter, N. & Grech, C. (2023). Mental Deterioration of Refugees and Asylum Seekers with Uncertain Legal Status in Australia: Perceptions and Responses of egal Representatives. *International Journal of Social Psychiatry*, 69(5), 1277-1284. <https://doi.org/10.1177/00207640231159297>.





Sonia's Story*

Sonia's husband has been in immigration detention for several years, leaving her and her toddler son alone in the community with limited support. Most days, Sonia completes the long and challenging process to apply for a visit and travel to the detention centre to visit her husband. During one visit with Sonia, her husband and her son, the little boy pleaded with his dad to "come home with me and mum" and attempted to drag his father toward the door.

Although Sonia's husband was recently released and reunited with his family, the prolonged stress and trauma from family separation has taken its toll. Over time, staff supporting the family have noticed a change in Sonia's behaviour and more recently Sonia has appeared angry and distressed when attending The Salvation Army emergency relief services. Sonia has lost several pregnancies and struggles to afford daily living costs and her family's medical costs.

Reducing Disadvantage

- 2.3 The Salvation Army sees experiences of disadvantage filter into all areas of life for people seeking protection. Homelessness, financial hardship, and poverty are common amongst refugee and asylum seekers who seek support from The Salvation Army.
- 2.4 We see that alongside the stress of legal and financial barriers associated with navigating migration processes, many people seeking asylum are unable to earn an income to survive due to limited work rights, perpetuating this disadvantage. Through no fault of their own, we see many who are unable to afford safe and appropriate housing, healthcare, and basic necessities. We recognise and evidence suggests that ongoing disadvantage and hardship compounds experiences of trauma and results in poor physical, emotional, and social health amongst refugees and asylum seekers.¹³

Amin's Story*

Amin has exhausted all avenues after being rejected by the Fast-Track visa processing. He struggles to afford daily life and is experiencing extreme financial hardship. Amin volunteers five days per week and has been found to be a reliable and skilled worker whilst volunteering. He was offered employment but was unable to accept as he does not have work rights. In the past, Amin lived with a kind Australian couple who had a spare room as he was unable to afford housing. He is no longer able to live there and faces homelessness. Amin is helpless, he cannot afford housing or food. He also cannot work to survive.

¹³ Torlinska, J., Albani, V. & Brown, H. (2020). Financial Hardship and Health in a Refugee Population in Australia: A Longitudinal Study. *Journal of Migration and Health*, 1. <https://doi.org/10.1016/j.imh.2020.100030>.





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“Australia treats animals better than people. They don’t like us. We can starve but Australia wouldn’t let animals go hungry”

”

- An Asylum Seeker supported by The Salvation Army

2.5 The Salvation Army draws attention to the important work of community-based emergency relief programs who provide essential frontline support for asylum seekers and refugees who experience hardship and disadvantage. It is services such as these, which aim to support persons seeking protection with compassion, to live a life of dignity. See below example.

The Salvation Army’s Asylum Seeker and Refugee Service

The Asylum Seeker and Refugee Service is a Salvation Army initiative in Victoria which provides specialist support to refugees and asylum seekers who experience hardship.

Working under The Salvation Army Doorways banner, the service provides dedicated case management, emergency relief, and material aid such as food parcels, food vouchers, clothing and hygiene essentials, and support with daily living expenses to refugee and asylum seekers.

The service works alongside The Salvation Army Employment Plus and Chaplaincy programs who are involved in positive and meaningful ways to alleviate disadvantage and allow people seeking protection to live with dignity.

Recommendation 4

2.6 The Salvation Army recommends that the Australian Government commit to shaping legislative and policy reform which is compassionate, proportionate and trauma-informed. This should include meaningful consultation with individuals and communities who have lived experience.



3 Conclusion

- 3.1 The Salvation Army thanks the Senate Legal and Constitutional Affairs Committee for the opportunity to provide a written submission.
- 3.2 The Salvation Army would welcome the opportunity to discuss the content of this submission should any further information be of assistance. Further information can be sought from government.relations@salvationarmy.org.au.

The Salvation Army Australia Territory

April 2024





Appendix A About The Salvation Army

The Salvation Army is an international Christian movement with a presence in more than 130 countries. Operating in Australia since 1880, The Salvation Army is one of the largest providers of social services and programs for people experiencing hardship, injustice and social exclusion.

The Salvation Army Australia provides more than 1,000 social programs and activities through networks of social support services, community centres and churches across the country.

Programs include:

- Financial counselling, financial literacy and microfinance
- Emergency relief and related services
- Homelessness services
- Youth services
- Family and domestic violence services
- Alcohol, drugs and other addictions
- Chaplaincy
- Emergency and disaster response
- Aged care
- Employment services

As a mission-driven organisation, The Salvation Army seeks to reduce social disadvantage and create a fair and harmonious society through holistic and person-centred approaches that reflect our mission to share the love of Jesus by:

- Caring for people
- Creating faith pathways
- Building healthy communities
- Working for justice

We commit ourselves in prayer and practice to this land of Australia and its people, seeking reconciliation, unity and equity.

Further information about The Salvation Army can be accessed at: <
<https://www.salvationarmy.org.au/>>

