

RESISTANCE IN RESPONSE TO AUSTRALIAN IMMIGRATION DETENTION, LESSONS LEARNT AFTER THREE DECADES OF ADVOCACY

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Australia's approach to refugees and asylum seekers has been recognised internationally as uniquely cruel. For almost three decades, those who sought asylum in Australia have been locked up, many indefinitely, in detention centres on the Australian mainland, and since 2013 offshore, on Manus Island (Papua New Guinea) and Nauru. Violence, abuse, riots, self-harm and suicide have been endemic in this system. Australia's offshore detention policies have been particularly harshly criticised: the International Criminal Court condemned them as "[cruel, inhuman, or degrading treatment](#)", and in 2016, Amnesty International [concluded](#) that, "the intentional nature of the system, and the fact that the goal of offshore processing is to intimidate or coerce people to achieve a specific outcome – amounts to torture". Rather than take steps to remedy these issues, the Australian government has instead attacked critics, attempted to cover up the inhuman conditions and despair, and even passed legislation to stop those who had worked in detention centres from speaking out.

Recognising that the Australian government has long rejected all collaborative and constructive attempts to reform this system, many have demanded change. Marches, vigils, sit-ins, whistleblowing and even civil disobedience have all been common. What can be learnt from such action? While there are many examples we could turn to, below we will focus on the issue of medical transfers from offshore detention centres to Australia.

After offshore processing was introduced in 2013, the Australian government declared that nobody offshore would be resettled in Australia. Since then, the government resisted any attempt to transfer people, even if for emergency medical treatment. It was not long before this policy had fatal consequences. Almost 12 months after being detained, Hamid Khazaei, an Iranian asylum seeker, who was otherwise fit and healthy, died after a small cut on his leg developed into sepsis. His transfer to Australia was delayed a number of days. Following an inquest into Khazaei's case, the [Queensland Coroner](#) reached a number of conclusions, among them, that the "significant flaws in the arrangements for Mr Khazaei's transfer from the MIRPC [Manus Island Regional Processing Centre]" contributed to his death. Ultimately the coroner

concluded that if he were transferred to an Australian hospital within 24 hours of developing sepsis his death could have been prevented.

Since the death of Hamid Khazaei, many others have unnecessarily suffered as the Australian government continues to resist efforts to transport people to the Australian mainland for medical care. In 2016-17 reports began to emerge about the government refusing significant numbers of medical transfers. By the end of 2018 over 50 injunctions were filed in the Australian Federal Court on behalf of adults and children in offshore detention, seeking that they be transferred to Australia for medical care. This litigation led to the evacuation of [hundreds of individuals](#) from offshore detention. During this time, almost every transfer to Australia, including those of unwell children, occurred only by court order, and even then, both the Australian and Nauruan governments worked together to [defy these orders](#).

In late 2018, a political shift occurred in Australia. Malcolm Turnbull, the then Prime Minister stepped down, after Scott Morrison successfully challenged for the leadership of Australia's ruling liberal party. This forced a by-election, where independent, Kerryn Phelps won the seat. Phelps had previously criticised the government's approach to refugees and asylum seekers, and the new balance of power in parliament ultimately allowed it to pass the [Migration Amendment \[Urgent Medical Treatment\] Bill](#) or what became known as the Medevac legislation. The Medevac legislation came into effect in March 2019, and it strengthened doctors' position to recommend transfers of those who required medical treatment in Australia. Despite Medevac being repealed in December 2019, 192 transfers were successfully completed because of it. For those who made it to Australia however, their ordeal was far from over, as all remained detained in hotels for a number of years. It was not until recently that the Australian government finally released them into the Australian community on temporary visas.

There are several lessons that are briefly worth mentioning from the above events. First and perhaps obviously, the above changes did not come about because the Australian government had a change of heart. Since the introduction of offshore processing there has been persistent opposition to these policies and pressure placed on the government to transfer asylum seekers to Australia. Up until recently when a number were released into the community, protests occurred almost daily outside of the hotels where asylum seekers were held.

These changes also only came about as opportunities were leveraged. The Medevac legislation would not have been passed without the largely unforeseen change in leadership that led to the reconfiguration of the Australian parliament. Over 5000 Australian doctors signed an [open letter](#) with some even attending parliament to lobby the government to keep the law. Almost every major professional healthcare body also implored the government to evacuate Manus and Nauru well before the introduction of Medevac. Beyond this, there are also lessons in the importance of building partnerships and coalitions. As Talbot and Newhouse ([2019](#)) note, the possibility to push through the Medevac legislation resulted in “doctors, lawyers, caseworkers and others in the sector collaborating in previously unseen ways” as a means to ensure this law passed. Perhaps above all however, these events are a lesson in persistence. Many of those asylum seekers who were recently released into the community had been detained for almost eight years. Their persistence, along with those who continued to protest and kept these issues in the headlines, have only now started to pay off. In saying this, persistence will also be needed in the future. The Australian government still considers those who have been released to the community as ‘transitory’ meaning they remain at risk of being deported. Similarly, while we can count some small victories, many continue to remain detained and the Australian government maintains its position of deterrence, at seemingly any cost. The same could be said globally, with the UK government modelling itself on Australia and [looking at offshore detention](#), and with millions displaced, we should not discount the value of resistance in demanding better treatment for refugees and asylum seekers.