

Immigration Detention and Human Rights

This factsheet is designed to give you information on the organisations that monitor and report on the conditions in immigration detention, including about a person's continued detention.

Legal Aid ACT **does not** have the capacity to assist asylum seekers and refugees in immigration detention facilities.

If you are an asylum seeker, refugee or disadvantaged migrant who is in an immigration detention facility, get in touch with **Refugee Legal**.

Refugee Legal

Phone: **(03) 9413 0100**

Wednesdays and Fridays 10am-2pm

<https://refugeelegal.org.au>

Who handles complaints about detention conditions or about breaches of human rights?

The Australian Red Cross visits immigration detention facilities to assess and monitor the general conditions of detention as well as the treatment of people held in detention.

The Australian Red Cross

Phone: **(03) 9345 1800**

Wednesdays and Fridays 10am-2pm

Email: nat_idp@redcross.org.au

If you are not able to call or email the Australian Red Cross, you can also write a letter to them outlining your concerns. This letter should be addressed to:

Immigration Detention Monitoring Program
Australian Red Cross
PO Box 196
Carlton South VIC 3053

The Commonwealth Ombudsman takes complaints and writes reports in relation to immigration matters including safeguarding conditions in detention.

Commonwealth Ombudsman

Phone: **1300 362 072**

www.ombudsman.gov.au/

The Australian Human Rights Commission (AHRC) can inquire into complaints of breaches of human rights in immigration detention. They also monitor human rights standards in immigration detention.

The Australian Human Rights Commission

Phone: **1300 656 419**

www.humanrights.gov.au

If you are not able to email the AHRC, you can also write a letter to them outlining your complaint. This letter should be addressed to:

Director, Investigation and Conciliation Service
Australian Human Rights Commission
GPO Box 5218
Sydney NSW 2001.

Complaints to the AHRC must be made in writing.

What are my human rights?

Australia is a signatory to the International Covenant on Civil and Political Rights (ICCPR).

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The AHRC can investigate your treatment against the ICCPR.

The articles of the ICCPR that could be of particular relevance to a complaint to AHRC are: article 9(1), article 10(1), article 17(1), and article 23(1).

Under article 9(1) of the ICCPR, there is a requirement that **detention not be 'arbitrary'**. This means that detention should not continue beyond a period that the Department of Home Affairs (the 'Department') can provide appropriate justification for.

Detention is arbitrary where it is not necessary in all the circumstances of the case. In your case, there may be less restrictive means of achieving compliance with immigration policies, especially if you pose no unacceptable risk to the community.

If your health is worsening or detention is causing damage to your emotional wellbeing this could make it unreasonable that the Department is continuing to detain you.

Under article 10(1) of the ICCPR, there is an obligation on the Department to take actions to prevent inhumane treatment of detained persons. This includes a requirement to respect the rights and interests of a detainee to maintain family connections.

Under articles 17(1) and 23(1) of the ICCPR, every person has the right not to be subjected to an arbitrary interference with their family and to the protection of the family. These articles may have been breached in your case if you are separated from

your family because of your detention and if this is affecting your ability to maintain your family relationships.

This factsheet was originally developed by the Refugee Advice & Casework Service Sydney (RACS) (www.racs.org.au).

This factsheet is a guide only and is not legal advice. While due care has been taken to ensure the accuracy of the material contained in this factsheet, Legal Aid ACT and the Refugee Advice & Casework Service Sydney cannot take responsibility for any errors or omissions.