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Complementary protection enables asylum seekers who do not meet the refugee definition but nevertheless face real and serious dangers to claim protection on the basis of human rights law. Complementary protection has operated under Australian law since 2012.

What is complementary protection?

A refugee is someone with a well-founded fear of being persecuted for reasons of race, religion, nationality, political opinion or membership of a particular social group. However, someone may be at risk of serious human rights violations in their country of origin but not satisfy the definition of a refugee. This may occur, for example, if the harm they face is not linked to one of the five Refugee Convention grounds.

International human rights law precludes countries from sending people to places where they face a real risk of being arbitrarily deprived of their life, tortured, or exposed to other cruel, inhuman or degrading treatment or punishment, among other things. In this way,

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Since 24 March 2012, Australian law has enabled asylum seekers to claim complementary protection if they do not meet the refugee definition. This is reflected in section 36(2A) of the [Migration Act 1958 \(Cth\)](#). Specifically, it provides that Australia is not permitted to remove people to places where they face a real risk of one or more of the following:

- < arbitrary deprivation of life
- < the death penalty
- < torture
- < cruel or inhuman treatment or punishment
- < degrading treatment or punishment.

if a person can safely relocate to another part of the country; if an authority within the country can provide protection; or if the risk is faced by the population generally and not by the non-citizen personally.

Section 36(2C) sets out exclusion clauses. These render a person ineligible for complementary protection if there are serious reasons for considering that they have:

- ◁ committed a crime against peace, a war crime or a crime against humanity;
- ◁ committed a serious non-political crime before entering Australia; or
- ◁ been guilty of acts contrary to the purposes and principles of the United Nations.

These grounds for exclusion also apply to Convention refugees. However,