



AUSTRALIAN
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FOR
HUMAN RIGHTS

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16 September 2016

Hon Michael Woodhouse
Minister for Immigration
Parliament Buildings
Wellington 6160
New Zealand

Via email only: michael.woodhouse@national.org.nz

CC: Rt Hon John Key
Prime Minister of New Zealand

Via email only: j.key@ministers.govt.nz

Dear Hon Michael Woodhouse,

Re: Request for resettlement of refugees from Nauru and Manus Island

I am writing on behalf of Australian Lawyers for Human Rights (ALHR), a national network of Australian solicitors, barristers, academics, judicial officers and law students who practise and promote international human rights law in Australia, to request your government's assistance in resettling refugees currently being forcibly held in indefinite detention at Regional Processing Centres operated by the Australian Government on Manus Island in Papua New Guinea and on the Republic of Nauru.

We acknowledge and applaud the New Zealand Government for its previous offer of resettlement for 150 refugees from Nauru and Manus Island. ALHR understands that Prime Minister John Key has indicated to the Australian Government that this compassionate offer remains on the table. Since this initial offer in 2013, the situation for these refugees on Nauru and Manus Island has deteriorated even further. We urge New Zealand to continue advocating for Australia to uptake an offer of resettlement or, in the alternative, to take this offer directly to the Governments of Papua New Guinea and/or the Republic of Nauru.

The fact that conditions on Nauru and Manus Island violate international norms is indisputable. Over 2,000 recently leaked incident reports from Nauru revealed numerous instances of assault, sexual abuse, child abuse and self harm. An Australian Senate Inquiry and a report by the Australian Human Rights Commission on Australia's detention practices also highlighted serious concerns about living conditions in offshore processing centres, particularly with respect to children. In relation to Manus Island, the Supreme Court of Papua New Guinea ruled earlier this

year that the detention of asylum seekers and refugees was illegal and violated the country's Constitution.

In March 2015, the UN Special Rapporteur on Torture found that aspects of Australia's indefinite detention regime violated the *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. The United Nations High Commissioner for Refugees has repeatedly condemned the treatment of refugees and asylum seekers in Nauru and Manus Island, calling for the offshore centres to be closed and durable solutions to be found for refugees. The UN High Commissioner for Human Rights, Prince Zeid Al Hussein, has singled out Australia's deplorable treatment of asylum seekers on a number of occasions as a caution to the world of a dangerous development in international affairs.

Holding refugees and asylum seekers on these islands – including those who are no longer living inside the processing centres – is causing tremendous damage to these individuals' physical and mental well-being. Former staff from the Nauru processing centre, including medical professionals, case managers, social workers, child protection specialists and teachers have recently expressed their concerns about the treatment of these men, women and children, despite facing possible imprisonment for speaking out.

The forcible transfer and detention of asylum seekers on Nauru and Manus Island could amount to crimes against humanity, in violation of the Rome Statute of the International Criminal Court. Alleged perpetrators include both the relevant Australian Government Ministers and those responsible for managing the offshore processing centres. At least one submission has been made to the International Criminal Court, and others are likely to be lodged.

Pursuant to the international community's Responsibility to Protect (R2P) – a global political commitment endorsed by all UN Member States in 2005 – States must act to protect this population from potential crimes against humanity.

We therefore urge for your prompt intervention in this entirely preventable humanitarian disaster.

Some 2,000 people remain trapped on Nauru and Manus Island, living either in processing centres or in the community. According to Government statistics as at 31 July 2016, there were a total of 833 people in the Manus Island Regional Processing Centre and 411 people in the Nauru Regional Processing Centre. There have been 511 positive refugee determinations on Manus Island and 924 positive determinations on Nauru, and the process continues. These are recognised refugees who have a well-founded fear of persecution in their countries of origin. Their suffering has continued whilst living in Nauru or Manus Island, in some cases for years. These individuals, as well as those who are yet to be recognised as refugees, urgently need access to durable solutions.

The Australian Government has persistently refused to resettle refugees from Nauru and Manus Island in Australia. A permanent resettlement arrangement with Cambodia has had limited impact, with only one refugee being successfully resettled to date. Canada has accepted two refugees from Nauru. Refugees on Nauru have the option of being resettled on the island for up to ten years, but living conditions are poor, they have limited job prospects, they reportedly experience abuse and violence, and their children face obstacles to obtaining an education. At present, they have no other options.

ALHR believes that recognised refugees must not be resettled in countries that do not have the capacity or resources to provide them with adequate protection. Nor should they be resettled in countries that are not party to the 1951 Refugee Convention. The Australian Government offers financial incentives for asylum seekers to return to their countries of origin, which is of concern to ALHR. Individuals who do not have protection concerns in their countries of origin ought to voluntarily return. However, given the lack of prospects for durable solutions, some asylum seekers with legitimate protection concerns might see no choice but to return to their countries of origin, placing their lives at risk. Between 13 September 2013 and 30 June 2016, 541 asylum seekers have opted to return to their countries.

The principle of international cooperation underpins the international refugee framework, and is also a key objective of the UN Charter. Ensuring the protection of refugees is a global responsibility. Whilst Australia should bear primary responsibility for finding durable solutions for refugees on Nauru and Manus Island, along with Nauru and Papua New Guinea, it is clear that they are not willing to do so. It is time for the international community to act. We therefore call upon your government, in a spirit of solidarity, to not only press its initial offer, but also to consider offering to resettle greater numbers of these refugees.

ALHR is writing to the Government of New Zealand as your country has already demonstrated considerable generosity with respect to its initial offer to resettle 150 refugees. Further, ALHR is eager to see Australia working more closely with New Zealand on the development of regional solutions to current refugee crises. Please note that we are also reaching out to the Governments of the United States of America, Canada and Germany with a similar request. We sincerely hope that New Zealand, possibly in collaboration with other resettlement countries, will take our proposal into account.

We thank you for considering this letter and look forward to hearing from you.

In the spirit of international cooperation and humanity.

Yours faithfully,



Benedict Coyne
President
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