



Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600

11 April 2024

Dear Committee Secretary,

Re: *Migration Amendment (Removals and Other Measures) Bill 2024*

Médecins Sans Frontières/Doctors Without Borders (MSF) Australia welcomes the opportunity to contribute to the Committee's deliberation on *Migration Amendment (Removals and Other Measures) Bill 2024* (Cth) (the Bill). MSF is a non-profit, self-governing, member-based international medical organisation that provides healthcare to people affected by conflict, epidemics, disasters, or healthcare exclusion. Our tens of thousands of health professionals, logistics and administrative staff are bound by a charter based on medical ethics, and the principles of impartiality, independence, and neutrality. We do not receive Official Development Assistance; when we identify a critical issue that requires us to speak out, we do so from a position of independence, presenting evidence-based assessments informed by over fifty years of medical expertise, focused on the rights and well-being of patients.

MSF makes this submission to appeal to the Australian government to reconsider the impact of the Bill on already at-risk, vulnerable asylum seekers and refugees (ASR), based on MSF insights and data gathered while providing medical humanitarian aid to displaced populations globally and specifically mental health services to detainees on Nauru and in Papua New Guinea (PNG). Our report, "Indefinite Despair,"¹ documented the degree and severity of mental conditions among patients on Nauru as among the worst MSF has ever observed globally - comparable to that of victims of torture and/or human trafficking.

MSF strongly opposes the Labor Government's proposed Entry Ban and Deportation Bill which punishes and criminalises refugees and people seeking asylum.

At the last election, Australians voted for humane and compassionate policies for refugees and people seeking asylum. This Entry Ban and Deportation Bill will result in families being ripped apart and people being forced to return to countries where they face persecution and even death. This Bill goes against Australia's values of democracy and fairness by giving the Minister unchecked powers to deport people from Australia and prevent people from entering Australia. This Bill permits refugees

¹ Médecins Sans Frontières, 'Indefinite Despair: The tragic mental health consequences of offshore processing on Nauru' (Report, December 2018) <<https://www.msf.org/indefinite-despair-report-and-executive-summary-nauru>>



to be deported to third countries, including countries where they have no connection or support network, which will leave them vulnerable to persecution and harm.

We expect the Government to honour its obligations under the 1951 Refugee Convention and not return people to countries where they face severe threats to their life or freedom.

This Bill creates a significant risk of Australia breaching its obligations under the Refugee Convention and international law. Specifically, the Bill's deportation provisions could result in the refoulement of refugees and stateless persons to countries where they face a well-founded fear of persecution, torture, or other serious harm, including death. The limited exception for those 'owed protection findings' is insufficient. It fails to encompass all refugees, potentially leading to the deportation of individuals granted humanitarian visas who may still face harm upon return.

Furthermore, the Bill offers no protection for those with unassessed or unfairly assessed claims, including those disadvantaged by the previously acknowledged flaws of the Fast Track process. The Minister's new power to overturn protection visas further exacerbates the risk of refoulement, potentially impacting previously recognised refugees. The Bill fundamentally lacks safeguards for asylum seekers and refugees who may have legitimate protection claims, placing Australia at risk of violating its international human rights commitments.

MSF has witnessed and documented the catastrophic mental health effects of detention, as evidenced by MSF's data and medical experience with patients on Nauru and PNG - 62% were diagnosed with moderate to severe depression, with 25% suffering from anxiety disorder, and a further 18% experiencing post-traumatic stress disorder. The new criminal offence for failing to engage with the deportation process imposes a harsh penalty, including a minimum 1 year mandatory minimum sentence.² This Bill will punish refugees and asylum seekers by forcing them to cooperate with their deportation process or face imprisonment. This will result in refugees, people seeking asylum and people who are stateless being incarcerated indefinitely, either in immigration detention or prison, compounding the already profound threat to asylum seekers' and refugees' psychosocial well-being.

The threat of deportation, exacerbated by the lack of a clear, consistent framework for the Minister's discretionary powers, emphasises the serious mental health consequences of such policy decisions for ASR populations. 75% of ASR patients in Nauru reported traumatic experiences in their origin countries or during migration, with the indefinite detention policy framework of the Australian Government emerging as the primary stressor affecting their lives and mental well-being. Almost two-thirds of patients had suicidal ideation and/or engaged in self-harm or suicidal acts, with one-third having attempted suicide. Children as young as nine were found to have self-harmed, experienced suicidal ideation, or attempted suicide. The potential separation from family and the fear of being returned to harm are significant stressors on asylum seeker and refugee, with the Bill's discretionary provisions likely amplifying these fears by failing to guarantee a transparent and

² Migration Amendment (Removals and Other Measures) Bill 2024 (Cth) ss 199E(1)-(2).



equitable process for deportation assessments. This concern is particularly acute in cases of potential family separation, where the Bill falls short of consistently considering the rights of families and children when reevaluating protection findings.³ As a result, families may be solely reliant on discretionary ministerial intervention to protect their rights.

While MSF gratefully acknowledges the government's contributions to ASR resettlement, we strongly advocate for policies and practices that protect the health, dignity and rights of all individuals, particularly the most vulnerable. The proposed amendments in their current form risk undermining this government's humanitarian legacy.

We urge the Committee to consider the potentially severe implications of the Bill on the health and welfare of ASR individuals, and to ensure Australia's ASR legal mechanisms uphold the protection of fundamental human rights.

Yours sincerely

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Jennifer Tierney
Executive Director
Médecins Sans Frontières Australia

³ Explanatory Memoranda, *Migration Amendment (Removals and Other Measures) Bill 2024* (Cth), Attachment A.