



# Edmund Rice Centre

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3 November 2016

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Senate Legal and Constitutional Affairs References Committee  
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## **Edmund Rice Centre submission to Senate Legal and Constitutional Affairs References Committee Inquiry into the serious allegations of abuse, self-harm and neglect of asylum seekers in relation to the Nauru Regional Processing Centre and Manus Regional Processing Centre**

### **Preamble**

The Edmund Rice Centre (ERC) is a research, education, advocacy and networking body that promotes the causes of the most marginalised in society. To that end, the ERC has been involved over time in supporting and advocating for people seeking refugee status in Australia. Our submission to this Inquiry is based on the work the ERC has done with asylum seekers and refugees. It is made in addition to our submission to the *Senate Legal and Constitutional Affairs References Committee Inquiry into Conditions and treatment of asylum seekers and refugees at the regional processing centres in the Republic of Nauru and Papua New Guinea* of March 2016.

### **Summary**

The Edmund Rice Centre has grave concern for the living conditions of transferees to processing centres in the Republic of Nauru (Nauru) and Manus Island, Papua New Guinea (PNG) and the response by Australia, or lack thereof, to the serious allegations of abuse, self-harm and neglect of people in both centres.

The Memoranda of Understanding (MOU) between Australia and Nauru and Australia and PNG clearly outline Australia's, Nauru's and PNG's obligations with regard to the processing centres. These obligations have not been met creating a set of circumstances that made the incidents of self-harm inevitable. Australia's duty of care, established in the MOUs, has not been fulfilled setting up the circumstances that allowed for abuse and neglect of the transferees.

It is the recommendation of the Edmund Rice Centre that the processing centres are closed permanently, the MOUs dissolved and the transferees are brought to Australia so that Australia can meet its international legal obligations with regard to people seeking asylum in Australia. The decision of the PNG High Court that the Manus Island regional processing centre was unconstitutional is the catalyst for these steps to be taken.

Furthermore, any attempt to negotiate third-country resettlement arrangements must reflect our non-refoulement obligations and be part of developing a genuine and durable regional cooperation framework.

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## The factors that have contributed to the abuse and self-harm alleged to have occurred

Since regional processing was reintroduced in 2012, there have been numerous reports of abuse, self-harm and neglect experienced by refugees and asylum seekers on Nauru and Manus Island. There have also been reports of systemic cover-ups by officials and a deliberate effort to construct a veil of secrecy to prevent information being made public. At best, life on Nauru and Manus can be described as unsafe for refugees and asylum seekers with widespread accounts of violence and abuse directed towards them.

In light of these reports, the Edmund Rice Centre sees no alternative other than the closure of the regional processing centres on Nauru and Manus Island.

The primary objective of the regional processing centres on Nauru and Manus Island is deterrence. The centres were opened in 2001 and subsequently re-opened in 2012 to reduce the incentive for people to seek asylum in Australia by boat. For example, the *Report of the Expert Panel on Asylum Seekers* released in 2012 recommended:

*“There also needs to be policy circuit breakers operating at a second level...**Circuit breakers are needed to reduce the attractiveness of Australia as a destination point for irregular migration...The Panel’s view is that, in the short term, the establishment of processing facilities in Nauru as soon as practical is a necessary circuit breaker to the current surge in irregular migration to Australia.**”<sup>1</sup> (Emphasis added).*

A policy of deterrence is effectively a policy of punishment. The people on Manus and Nauru are used as an example of what will happen if you try to come to Australia by boat. Therefore, the conditions in regional centres are designed to be difficult in order to provide a disincentive to others who may be contemplating coming to Australia by boat.

This policy approach was expanded by Kevin Rudd in July 2013 when he announced that people who seek asylum and arrive by boat will not be allowed to be resettled in Australia, even if they are assessed as refugees. We understand that the Department of Immigration and Border Protection has pursued a culture designed to ensure people seeking asylum have “no crack of light” when it comes to resettlement in Australia. When a policy is designed to end any sense of hope and spirit, there should be little wonder people respond with self-harm.

This has been exacerbated by the culture of secrecy and harsh conditions in the centres, as outlined in our previous submission of 31 March 2016.

The cruelty of Australia’s policy was again reinforced with the announcement on 30 October 2016 that no one who came to Australia by boat after 19 July 2013 will ever be able to come to Australia on any type of visa – student, spouse, business, tourism or family reunion. This is punishment of innocent people who sought our protection. In 20 years’ time many of the refugees currently on Nauru and Manus will, hopefully, be living successful lives in third countries, like New Zealand or the USA. The life time ban may well see Australia banning USA or New Zealand citizens: banning professionals from attending conferences, banning family members from attending funeral or weddings. It is a new low in Australian cruelty.

## The obligations of the Commonwealth Government relating to the treatment of asylum seekers, including attempts to negotiate third country resettlement

### **“Bring them here”**

The most efficient and practical means by which to resettle transferees who are currently on Nauru and Manus Island would be to bring them to Australia. While both the Government and Opposition have ruled out supporting resettlement in Australia, they have yet to propose a durable solution. To date, the only country that has agreed to resettle refugees has been Cambodia. However, on any objective measure, this agreement has been an abject failure with only two of the five refugees who accepted the resettlement offer remaining in Cambodia.<sup>2</sup>

Four years since the reopening of the centres, the lack of progress in negotiating third-country resettlement arrangement is unsurprising – at a time when the global community is dealing with the highest number of displaced people than at any time since UNHCR records began, very few countries are willing to deal with Australia’s challenges when they also face their own.<sup>3</sup>

There is nothing new about this. Between 2001 and 2008, 61 per cent of refugees on Nauru and Manus Island were resettled in Australia.<sup>4</sup> As the former Secretary of the Department of Immigration and Citizenship, Andrew Metcalfe explained in 2008 –

*“The majority of people found to be refugees as a result of Australian officers interviewing them on Nauru were ultimately resettled in Australia. There were of course some people—largely that group from the Tampa—who were resettled in New Zealand. But following that 2001 resettlement, there was very limited resettlement elsewhere. A number of people went to Scandinavia but the vast majority came to Australia. It is the department’s assessment that resettlement of people in other places is extremely unlikely. **That is essentially for the reason that those folks are seen as Australia’s responsibility and Australia is a country with sufficient resources to deal with the issue.**”<sup>5</sup> (Emphasis added).*

The fact that the Government is yet to find a durable third-country resettlement option for refugees and asylum seekers on Nauru and Manus suggests Metcalfe’s 2008 analysis is still applicable. That is why it is so important the Government takes seriously the well-publicised offer from New Zealand to accept 150 refugees from Nauru. We also understand that similar offers have been made by the United States, Canada and Sweden. If people cannot be safely resettled in countries like these, with long-established records of successfully accepting refugees, then they must be brought to Australia.

### **The so-called “pull” factor**

The Government’s public position is that these countries will not be considered because they present “marketing opportunities” for people smugglers.<sup>6</sup> In other words, resettlement in Australia, New Zealand and other developed countries would create a pull factor and encourage more people to seek asylum in Australia by boat. For instance, Foreign Minister Julie Bishop said the New Zealand resettlement option –

*“...would send a message to the people smuggling trade that you can get to New Zealand and then, presumably, to Australia.”<sup>7</sup>*

This view is incorrect for a number of reasons. Firstly, past experience indicates that when people on Nauru and Manus were resettled in countries such as Australia and New Zealand between 2001 and 2008, the so-called pull factor did not eventuate.

Secondly, even if a pull-factor did exist, its impact can be overcome through the establishment of a genuine and durable regional cooperation framework that helps people before they decide to come to Australia by boat.

## **Regional Cooperation Framework**

The ERC submission to the *Senate Legal and Constitutional Affairs References Committee Inquiry into Conditions and treatment of asylum seekers and refugees at the regional processing centres in the Republic of Nauru and Papua New Guinea* of March 2016 provides more detail as to how a regional framework would work.

The programs developed in response to the Indo-Chinese refugee crisis in the 1970s and 1980s – the Orderly Departure Program and Comprehensive Plan of Action – provide a good model. The programs offered humane solutions to stopping the flow of boat arrivals in the aftermath of the Vietnam War: asylum seekers did not have to get on a boat because there were safe places near their homeland where their refugee claims could be processed and where an orderly resettlement process could take place.

Importantly, negotiating with individual countries to find a resettlement option for people on Nauru and Manus is not a durable solution. Ad-hoc bilateral deals do not constitute genuine regional cooperation frameworks, especially when they involve “people swap” arrangements. At its heart, a regional framework would play a crucial role in the realisation of durable solutions for refugees’:

- Safe and voluntary repatriation;
- Local integration in host countries; and
- Resettlement.<sup>8</sup>

Australia can play a greater role in working to realise these solutions by increasing our humanitarian intake to 30,000 people each year and increasing funding for the UNHCR and other peace-building initiatives. The announcement made by Prime Minister Turnbull on 21 September 2016 to make permanent Australia’s humanitarian intake of 18,750 and provide an additional \$130 million over three years for peace-building and refugee assistance, is a good start. However, more can and should be done, especially when considering that since 2013, the Government has reduced Australia’s humanitarian intake from 25,000 and the foreign aid budget has been cut, including funding for the UNHCR.

In response to concerns that further increases to Australia’s humanitarian intake and UNHCR funding are unaffordable, we would make this point: if the Government is prepared to spend \$9.6 billion over three years preventing people from entering Australia by boat, it can invest even one-third of that funding on programs to help people before they need to get on a boat.

### **Australia's non-refoulement obligations**

Government decisions in relation to the future of regional processing centres on Nauru and Manus must reflect the primacy of our non-refoulement obligations. We are concerned that the continued use of regional processing centres constitutes refoulement by stealth. Furthermore, we have serious concerns that in the absence of appropriate and durable third-country resettlement arrangements, people currently on Manus and Nauru will be deported to countries where they face significant danger.

According to the UNHCR –

*“The principle of non-refoulement constitutes the cornerstone of international refugee protection.”<sup>9</sup>*

Article 33(1) of the 1951 Refugee Convention makes clear Australia's non-refoulement obligations, specifically –

*“No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his [or her] life or freedom would be threatened on account of his [or her] race, religion, nationality, membership of a particular social group or political opinion.”*

The non-refoulement obligation also relates to asylum seekers because –

*“As such persons may be refugees, it is an established principle of international refugee law that they should not be returned or expelled pending a final determination of their status.”<sup>10</sup>*

Australia also has an obligation to grant protection to people who do not meet the Refugee Convention's definition of refugee, but who face would face serious human rights abuses if returned to their country of origin. This is known as “complementary protection.”

### ***The Government's position on refoulement***

Mike Pezzullo, Secretary of the Department of Immigration and Border Protection, has advised the Senate Legal and Constitutional Affairs Legislation Committee –

*“The historical basis of the transfers—noting that there has not been a transfer into regional processing for some 2½ years; **the Australian government acquitted its nonrefoulement obligations over 2½ years ago.**”<sup>11</sup>*

In other words, the Government believes that its non-refoulement obligations ceased when people were transferred from Australia to the regional processing centres.

This argument is problematic for a number of reasons, including:

- The regional processing centres were established and funded by Australian Governments;
- The Australian Government has been responsible for contractual arrangements at the Centres;
- A considerable number of staff at the centres are Australian;
- Reports of abuse, neglect and self-harm (such as those contained in the “Nauru Files”) are made to Australian officials; and

- The Australian Government has made decisions as to whether people will be transferred to Australia for medical treatment.

Given the significant control the Australian Government has had over the operations of the regional processing centres, it is impossible to argue that Australia has no responsibility over the fate of the refugees and asylum seekers who live on Nauru and Manus.

### ***Refoulement by stealth***

Australia's regional processing system has become a form of refoulement, directly and by stealth. By denying people who seek asylum by boat the opportunity to be resettled in Australia, the Government is significantly increasing the likelihood that people will be sent to unsafe places. Moreover, the cruel conditions faced by people on Manus and Nauru – including the reports contained in the “Nauru Files” – risks leaving people with no choice but to return to their home country or accept a resettlement offer in an unsafe and dangerous place.

While the Government may not be actively deporting people to dangerous places, by sustaining a system that has led to disturbing reports of abuse, neglect and self-harm, a passive system of refoulement by stealth has effectively been established.

As a former teacher on Nauru told ABC's *Four Corners* –

*“It's death by slow torture....the place is set up to make people go mad or just make people die inside.”<sup>12</sup>*

### ***PNG***

Transferring asylum seekers to PNG for processing and settlement is a potential breach of Australia's non-refoulement obligations. For instance, homosexuality is illegal on PNG. If any asylum seeker who is gay has been transferred by Australia to PNG, the Australian Government has breached its non-refoulement obligations. When asked whether the Department of Immigration and Border Protection had any “responsibility to those gay men who are currently detained on Manus, in terms of their human rights,” the Secretary of the Department Mike Pezzullo replied –

*“...the Australian government has no responsibility in that circumstance...[having] discharged all of its legal undertakings at the time of the transfer [from Australia to PNG].”<sup>13</sup>*

Applying the definition of refoulement to this scenario, it is clear that despite the protestations from Mr Pezzullo, Australia is in breach of its obligations: the Government has expelled a refugee to a country where his life or freedom is threatened on account of his membership of a particular social group (that is, the LGBTI community).

There are a multitude of other reasons why PNG is an unsafe place to send and resettle refugees. There have been numerous reports of asylum seekers and refugees being targeted in violent attacks. The majority of refugees and asylum seekers on Manus are Muslim and the country's Parliament has banned non-Christian faiths.<sup>14</sup>

Furthermore, article 20(c) on the MOU between Australia and PNG states –

*“The Government of Papua New Guinea assures the Government of Australia that it will –*



- (a) *Not expel or return a Transferee to another country where his or her life or freedom would be threatened on account of his or her race, religion, nationality, membership of a particular social group or political opinion; and*
- (b) *Make an assessment, or permit an assessment to be made, of whether or not a Transferee is covered by the definition of refugee in Article 1A of the 1951 Convention Relating to the Status of Refugees as amended by the 1967 Protocol Relating to the Status of Refugees; and*
- (c) *Not send a Transferee to another country where there is a real risk that the Transferee will be subjected to torture, inhuman or degrading treatment or punishment, arbitrary deprivation of life or the imposition of the death penalty."*

Presumably, this section of the MOU is an attempt to incorporate the non-refoulement obligations of Australia and PNG. Given the risks faced by refugees and asylum seekers in PNG, including the widely reported cases of inhuman and degrading treatment and the fact the death penalty may still be imposed as a punishment; Australia is breaching its obligations simply by transferring people to Manus Island.

### **Nauru**

There have been widespread reports of violence, especially towards women, on Nauru which highlight the dangerous situation faced by refugees and asylum seekers in that country. Refugee and asylum seeker children have also reported that they do not feel safe at school in Nauru, with one child recounting to ABC's *Four Corners* –

*"They showed the knife to us and they say don't come here anymore. This is not your school, this is our school. This is our country. Go away from here."*<sup>15</sup>

As is the case with PNG, asylum seekers and refugees on Nauru face a very real risk of experiencing inhuman and degrading treatment. The fact that Australia has transferred them to these places represents a breach of our non-refoulement obligations. The continued use of regional processing is unsustainable and the Australian Government must either bring refugees and asylum seekers to Australia and/or accept the New Zealand offer of resettlement and any other offers from comparable nations.

The very last thing that can be done is to forcibly return refugees and asylum seekers to their home country. This would place these individuals in serious danger. Even if people are considered to have returned "voluntarily," there are serious questions as to the process that led to such decisions being made.

### ***Where have people come from and where have they been transferred?***

The majority of people currently on Nauru and Manus are from Iran, Sri Lanka, Afghanistan, Pakistan, Iraq, Burma and Bangladesh.<sup>16</sup> There are also a number of people who are stateless.<sup>17</sup>

According to the Department of Immigration and Border Protection, between January 2014 and December 2015, people on Nauru and Manus Island were transferred to the following countries<sup>18</sup>:

Country	Number of people returned
Iran	210 (2014); 34 (2015)
Iraq	38 (2014); 10 (2015)
Lebanon	22 (2014); 4 (2015)
India	9 (2014)
Bangladesh	4 (2014)
Pakistan	4 (2014)
Sri Lanka	4 (2014); 2 (2015)
Sudan	3 (2014)
Somalia	2 (2014); 1 (2015)
Egypt	2 (2014)
Albania	1 (2014)
Afghanistan	1 (2014); 2 (2015)
Syria	1 (2014)
Jordan	1 (2014)
Cambodia	4 (2015)
Unknown	1 (2014); 10 (2015)

A simple examination of these countries' human rights records raises significant concerns about the possibility of refoulement. For example, in 2014, 98 per cent of returnees and in 2015, 79 per cent of returnees were sent to countries with the death penalty.<sup>19</sup>

Over the past 14 years, the Edmund Rice Centre has monitored the safety of asylum seekers who have been rejected by Australia as part of our *Deported to Danger* research project. Based on our research, which includes interviewing nearly 300 people from over 20 countries, we have serious concerns about the safety of people who will return to their home country – either voluntarily or by force.

### **Case Study: Iran**

The largest group of people currently in regional processing centres on Nauru and Manus are Iranian. There is considerable evidence highlighting the dangers involved in returning these people to Iran. It has been made clear over many years that the Iranian Government cannot be trusted when it comes to human rights, especially the use of capital punishment. Under the current regime, capital punishment rates are at some of the highest levels since Ayatollah Khomeini.

The Edmund Rice Centre has previously raised concerns about the human rights situation in Iran -

*“Political and religious dissent is punished very harshly in Iran often with death or cruel, inhuman and degrading treatment. Rights to freedom of speech, press, assembly and association are severely restricted. Discrimination is experienced by ethnic minorities such as Azeris and Kurds and by religious minorities – Sunni Muslims, Baha’is, Christians, Jews, Mandaean and Yaresans. Conversion from Islam is not permitted. The judiciary often acts as an arm of government policy and is not independent. Vigilante groups practise intimidation and violence with tacit support of members of government. In particular jeopardy are critics of the Shi’ia clergy dominated government and people who do not conform to the rigid Islamic dress and behavioural codes.”<sup>20</sup>*

While it is the position of the Iranian Government not to accept any returnee who has been deported against their will, it is impossible to ascertain whether people have genuinely returned on a voluntary basis. Alarming, *The Guardian* has reported that –

*“The absence of an arrangement between Australia and Iran ‘does not mean PNG has been not able to come to some other arrangement with Iran to send them back’.”*<sup>21</sup>

The potential deportation of men currently on Manus to Iran is a clear breach of Article 20(c) of the MOU between Australia and PNG which expressly prohibits the transfer of people to countries “where there is a real risk that the Transferee will be subjected to torture, inhuman or degrading treatment or punishment, arbitrary deprivation of life or the imposition of the death penalty.”

### **Case Study: Sri Lanka**

There are also a significant number of refugees and asylum seekers from Sri Lanka on Nauru and Manus. Returning these people to Sri Lanka presents significant risks and would amount to a potential breach of Australia’s non-refoulement obligations.

We are aware of reports of significant dangers faced by returned Sri Lankan asylum seekers. These dangers are not limited to Tamil asylum seekers, but include Sinhalese people as well. Returnees are regularly detained in prison and interrogated by the Sri Lankan Criminal Investigation Department (CID) upon their return.<sup>22</sup> We have received reports of returned asylum seekers being beaten during these interrogations.<sup>23</sup> Returnees are regularly charged under Section 45c of the *Immigrants and Emigrants Act*, which carries a prison sentence of between one and five years.

In one instance, a 60-year-old asylum seeker who “voluntarily” returned to Sri Lanka was arrested at the airport and subjected to 16 hours of continual interrogation upon his return, detained in prison and charged under s.45c of the *Immigrants and Emigrants Act*.<sup>24</sup>

In May 2015, the Edmund Rice Centre received further evidence of returned Sri Lankan asylum seekers experiencing torture upon their return. The two cases have in common the following elements, which contradict Australian officials’ claims that it is safe for Tamil asylum seekers to return:

- Prior to their removal both men had informed Australian officials that they were suspected of having links to the LTTE by Sri Lankan authorities because they were from LTTE controlled parts of the country; and
- When they were disbelieved or their fears were trivialised, they were returned to face interrogations with torture about the same matters, including:
  - The details of their escape by boat to Australia;
  - What they said to Australian officials;
  - Which LTTE members they met or knew in Australia; and
  - Both have credible evidence as to the effects of the torture they have suffered.<sup>25</sup>

In May 2016, it was reported that 12 Sri Lankan asylum seekers deported from Cocos Island were arrested at Colombo airport upon their return and referred to the CID.<sup>26</sup>

It is not safe to return Sri Lankans to their home country, whether forcibly or voluntarily.

### ***Case Study: Afghanistan***

Returning people currently on Manus and Nauru to Afghanistan would also constitute a potential breach of Australia's non-refoulement obligations.

In 2016, researchers from the Edmund Rice Centre travelled to Afghanistan to monitor the situation in the country, including an understanding of the 'returnee experience' to better understand the effect deportations have on rejected asylum seekers. Our researchers conducted interviews with returned asylum seekers from Australia and other countries, as well as experts working in Afghanistan from organisations such as the International Council of Red Cross (ICRC), United Nations High Commissioner for Refugees (UNHCR), International Organisation for Migration (IOM), International Assistance Mission (IAM), Afghan Analysts Network (AAN), Reuters, Aschiana, Afghan Human Rights Commission (AHRC), and the Friedrich-Ebert Foundation.

We have serious concerns about the current security situation in Afghanistan – despite 15 years of foreign intervention by US and NATO-led forces; the country remains a violent and unstable place.

More civilians have been killed in the last year, than in any of the previous 15 years. The Afghan government and military are unreliable and dependent on US finances and support, the Taliban movement is growing in confidence, warlords in various provinces are gathering forces, and regional powers such as Pakistan, Iran and Saudi Arabia continue to play influential roles in the country's future. Hazaras continue to be persecuted and they are regularly targeted in attacks by Taliban. The economy is failing, unemployment rates are rising, the number of internally displaced people due to conflict has increased and people are losing hope that the situation will improve. All this has created an overwhelming feeling in Afghanistan that the country is going to get worse before it gets better.

### ***The legitimacy of "voluntary" returns***

There are significant questions as to whether individuals "voluntarily" returned to their country of origin from the regional centres. It is unlikely these decisions would have involved informed consent. Between 2001 and 2008, the Government publicly lauded its achievement in securing the so-called voluntary return of a number of people from Nauru. From the interviews we have conducted with these returnees as part of our *Deported to Danger* project, we have found that their removal was not freely chosen. In 2006, our *Deported to Danger II* report concluded –

*"The kinds of threats used to influence them, added to the distress and exhaustion caused by conditions in Nauru, created a context of fear and desperation in which a genuinely free choice was not possible. Some, aware that they would not be safe, made quite explicit their unwillingness to be returned."*

A number of people recounted to our researchers the threats they received to elicit their return, including:

- "We were forced to leave. Threats were made about being sent to other camps, of not communicating with family if we did not leave."
- "A man from DIMIA told us they would drop us in a camp where we would not be free for many years. He told us you will be in prison. He showed us photos of this other camp. He said we would never see our families again."
- "I was told that Afghanistan was safe. I was told that the Australian Government will support us to get jobs in Kabul. I was told you will get an apartment."

- “Australian officials on Nauru told us we would get help with jobs and accommodation. Said there was a factory we could get work at. This was all a lie.”<sup>27</sup>

We have grave concerns that similar practices are again occurring and will continue to occur, especially on Manus Island where people who have been assessed as refugees have been given the option of settling in PNG, returning to their home country (where they face significant danger) or departing to any other country where they have a right to live.<sup>28</sup>

## Recommendations

- Recognising that the deterrence-based policy of regional processing has led to serious reports of abuse, self-harm and neglect, the existing regional processing centre in Nauru must be closed and people currently on Nauru and Manus Island should be transferred safely to Australia.
- The Government prioritise the development of a regional cooperation framework to facilitate the realisation of durable solutions for refugees, namely: safe and voluntary repatriation, local integration in host countries and resettlement. A regional cooperation framework would include:
  - The removal of barriers to refugee determination processes in countries such as Indonesia, Malaysia and Thailand;
  - Establishing protected spaces for international agencies such as the UNHCR to process claims and for NGOs to provide services to refugees and asylum seekers;
  - Cooperation between host countries, the UNHCR and resettlement states to provide durable solutions to refugees, whether that is resettlement, integration in a host country or assisted voluntary repatriation;
  - Consistent asylum processes across the region based on the Refugee Convention – these processes would include legislation for refugee status determination and independent review rights;
  - Improving conditions for refugees and asylum seekers in host and transit countries, such as legal permission to stay, work rights and access to basic services;
  - An increase in Australia’s humanitarian intake to 25,000-30,000; and
  - Increased funding for the UNHCR from countries of resettlement, such as Australia.
- Australia’s non-refoulement obligations must be a primary consideration in the negotiation of any third-country resettlement arrangement.

## Conclusion

The Edmund Rice Centre applauds the Senate for pursuing this Inquiry and commends our previous submission to the *Senate and Legal and Constitutional Affairs References Committee Inquiry into conditions and treatment of asylum seeker and refugees at the regional processing centres in the Republic of Nauru and Papua New Guinea*.

There is little evidence of mitigation or investigation on the part of Australia for the overwhelming reports of abuse, self-harm and neglect in the Nauru and Manus Island, PNG processing centres.

Part 6 of the Australian Border Force Act 2015 has made it dangerous for Australian workers in and around the Centres to report and garner action for the trauma experienced by the transferees.

It is the hope of the Edmund Rice Centre that this Inquiry will enable Australia to meet its obligations with regard to people who have sought asylum in Australia and enable the transferees to be returned to Australia for care and rehabilitation.

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<sup>8</sup> UNHCR, 2006, *Finding Durable Solutions*, UNHCR Global Appeal 2006

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<sup>18</sup> Ibid.

<sup>19</sup> Amnesty International, 2016, *Abolitionist and Retentionist Countries as of 20 June 2016*.

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