

## Submission to the Senate Legal and Constitutional Affairs Committee

### **Serious allegations of abuse, self-harm and neglect of asylum seekers in relation to the Nauru Regional Processing Centre, and any like allegations in relation to the Manus Regional Processing Centre**

Date: 4 November 2016

## Introduction

My name is Tracie Aylmer, and I am an advocate for the human rights of others. I won't go into detail upon how I have ended up with writing this submission, but will state that I have had some very difficult periods within my life which has enabled me to find compassion for others. At one stage, I had worked as a lawyer and migration agent, although at this point of time I find myself more comfortable with advocating for international human rights law, as well as the International Criminal Court.

## Terms of Reference

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

The factors are deep and complex. While there is an incredible amount of fear within the public over their future, it is mainly this fear that has contributed to the pushing away of any concrete solution. The fear of others is then outlaid within the media, and become exacerbated to such an extent that no one within Australia can breathe any type of sigh of relief.

For this reason, people are sent offshore, with the hope by many that they will continue their lives and not become a dominant factor within Australian society. This then causes even greater fear of the others who do not speak the same language. Instead of learning voraciously from those that may contribute to differing ideas, these people have been banished.

This exclusion causes such extreme mind games between both the Australian citizen and the excluded person that both suffer. Unfortunately for those that have been excluded, those mind games have ended up with severe mental illness. They are not trying to manipulate the system (within the Detention Services Manual), nor are they trying to manipulate the Australian public, by self-harm. They are not crying in unwarranted sheets of tears. They have serious mental health issues that need to be considered, as noted in this [article](#).

### b. How notifications of abuse and self-harm are investigated

From what is known, few (if any) of the many notifications of abuse and self-harm have been investigated.

### c. The obligations of the Commonwealth Government and contractors relating to the treatment of asylum seekers, including the provision of support, capability and capacity building to local Nauruan authorities

It is an obligation for the Commonwealth Government and contractors to not torture asylum seekers and refugees under the Government's care.

This may not include those that have placed themselves on a boat in another country that is bound for Australia. This would not be Australia's problem, but would be the other country's problem. When a boat goes into international waters and gets into trouble during peace time, the first ship that meets the ship is bound to rescue the troubled boat. This is as per the Law of the Sea, which is a notion that was created thousands of years ago. To do otherwise is a breach of a protocol that was set up during ancient times.

Therefore, as soon as Australia's ships saw the boats in trouble, Australia is bound to help the troubled ship. Australia is breaching thousands of years worth of practice by turning the troubled boat away.

Therefore, when some of the people on the trouble boat have ended up in detention with the intention of forcing them back to their home countries, this can be concluded as being noted as torture. The definition of torture is:<sup>1</sup>

the act of causing severe physical pain as a form of punishment or as a way to force someone to do or say something

something that causes mental or physical suffering : a very painful or unpleasant experience

By neglecting appropriate medical care, allowing [rape](#), not giving the asylum seekers and refugees a legitimate time to start their new lives, these can easily be classified as punishment for the simple request to begin their new lives elsewhere. Giving an indeterminate time causes very unpleasant experiences. Not enabling them to see other countries, as has been the norm for thousands of years, has put them in a type of prison. Forcing a person to stay in one place causes prison like experiences. To do this for the rest of their lives forces entrapment.

Because of these experiences, the duty of care given not just to the asylum seekers and refugees, but also to the Nauruans themselves, has disintegrated. Nauru's reputation has been tarnished significantly. The fact that they cannot afford to pay for the appropriate services for the asylum seekers and refugees is obvious. Obviously, the money has not gone into helping the Nauruan community provide the services necessary for an influx of people. Otherwise, they would not have had a need to cause [vitriol](#) upon the asylum seekers and refugees.

Australia's funding of the upkeep of the detention centres means that Australia is obligated to ensure the best possible service to those in their care. This has not happened. Otherwise, the Nauru Files would not have taken hold in both domestic and international media.

As there is such a lack of care, it is obvious that Australia does not have the competence to keep asylum seekers and refugees in detention, particularly in offshore detention centres. With the [billions of dollars](#) that has already been thrown at this issue, there obviously needs to be another way of handling the matter of how to immigrate asylum seekers and refugees.

d. [The provision of support services for asylum seekers who have been alleged or been found to have been subject to abuse, neglect or self-harm in the Centres or within the community while residing in Nauru](#)

As far as can be found, there are no legitimate support services for asylum seekers and refugees. They all deserve appropriate medical care that is not in all seriousness found in Nauru. Otherwise, those in Nauru would not be travelling to places such as Australia for specialised medical procedures. Nauru does not have the facilities to provide even their own people with proper care. Reason states that medical care would therefore be non-existent for asylum seekers and refugees.

e. [The role an independent children's advocate could play in ensuring the rights and interests of unaccompanied minors are protected](#)

Why is this question still being asked, after years of advising Government that this is the only reasonable and logical method to take? Minors should not be in offshore detention in the first place. Even the Detention Services Manual states in several areas that a minor should not be in

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<sup>1</sup> Merriam-Webster Dictionary, Torture <<http://www.merriam-webster.com/dictionary/torture>> viewed 4 November 2016.

detention. In other areas the Manual states that minors MUST not be in detention. Why are they still there? It is unreasonable, illogical and very expensive.

**f. The effect of Part 6 of the Australian Border Force Act 2015**

While it is a relief that the medical profession are now no longer bound by Part 6, others are. It is harrowing that, at any time, people can be found guilty for two solid years for showing humanity. People are wallowing in offshore detention. Why should this remain a secret? The international community knows everything, anyway. Part 6 of the Australian Border Force Act 2015 should be deleted at first convenience.

**g. Attempts by the Commonwealth Government to negotiate third country resettlement of asylum seekers and refugees**

As per my explanation above, as soon as Australian authorities saw the boats in international waters, the asylum seekers and refugees became Australia's responsibility. Instead of considering this as a threat, perhaps the conversation should be shifted to consider the asylum seekers and refugees as an honour to wish to contribute to our society. Asylum seekers and refugees are brave, resourceful and compliant with all aspects of the laws of their new country. They are a joy to become part of a new country.

If we did not have asylum seekers and refugees in our country, we would not have known about pasta, pizza, tacos, kebabs, souvlaki, baklava, schnitzel, dumplings, Chinese food, Japanese food, Brazilian food, Korean food, Thai food, and numerous other different types of food that are enjoyed by Australians. I am sure that many have enjoyed a kebab on their way home after a night of drinking. This is what a connected society does. To enjoy the different aspects of a culture, but not the people of the culture, does not show any form of logic.

**h. Additional measures that could be implemented to expedite third country resettlement of asylum seekers and refugees within the Centres**

Why should this happen in the first place? We NEED the asylum seekers and refugees within our own country. We need their resourcefulness and determination to keep our society going. It does not make any sense to give these types of opportunities to other countries.

## Other Aspects

There has been an enormous amount of talk about people smugglers within the past several years. It should be noted that I have not seen or heard of any people smugglers within Australia. I have only heard of people smugglers living and being part of organisations that are in other countries. For this reason, I would like to point out the following, which are relevant to this submission:

- International trade is very complex, to such an extent that there are a number of different treaties, agreements and rules that define international trade. Breaching international trade does have consequences, as noted [here](#);
- Each country has its own laws and business practices. They make their own laws in accordance with how they complete their own business. Australia's business practices can be very different other the business practices of many other nations, as noted [here](#);
- Every country has their own sovereignty. One country cannot dictate the sovereignty of another country. To do that breaches the trust of the other country. The definition of sovereignty can be found [here](#).

To claim that the business model of people smugglers working in another country with the different country's laws and methods has been broken by Australia's practice of destroying the lives of asylum seekers and refugees is ludicrous. It simply doesn't work that way. That approach is far too simplistic, unreasonable and illogical. Australia will never destroy the business model of people smugglers, because if they could they would be breaching the sovereignty of other countries.

Therefore, Australia's detention regime has been a total utter failure. It is expensive, has no reasoning to it and destroys international law.

## Recommendations

There are a number of recommendations that I insist would be much more beneficial than that of a detention regime. They are as follows:

- People need to relocate for many different reasons. There is nothing 'economic' with being forced to move to another country. No matter how much money one has, it is the last thing on people's minds when they run from bombs and the like. Give the full reason why people flee horrible circumstances, instead of finances;
- There is little relevant communication with our neighbours, due to the detention regime. Start communicating properly, and with the true spirit of negotiation;
- Open a processing centre in countries such as Indonesia. Make sure that processing is done quickly and efficiently, in order to save money;
- Open the minds of the population that refugees and asylum seekers are of benefit to the country, due to their resourcefulness. They hold the key to our future, as they can teach us efficiency and effectiveness in our trade;
- Ensure that we allow greater numbers. We need more refugees and asylum seekers into our country. We are not benefiting in any appropriate way without refugees and asylum seekers.

## Conclusion

As can be noted above, there are many reasons why the detention regime should be closed, and more viable options towards immigration should be considered. By closing the door on refugees and asylum seekers, we are closing the door on ourselves. By closing the door on the refugees and asylum seekers from Nauru and Manus Island, we are not just destroying our reputation, but we are not looking effectively at how much they could contribute in many different ways to our lives.

Australians are desperate to welcome the refugees and asylum seekers from Manus Island and Nauru. Why not just let them?