



## POST-EVENT REPORT

### Offshore Processing and Asylum Policy – Lessons from Australia ¶

21 September 2022

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On 21 September 2022, the Human Rights Law Centre at the University of Nottingham and the Kaldor Centre for International Refugee Law at the University of New South Wales (UNSW) co- K R V W H G D Q R Q O L Q H P H H W L Q J H Q W L W O H G µ 2 ± I V K R U H / H V V R Q V I U R P \$ X V W U D O L D ¶ 7 K L V P H H W L Q J E U R X J K W W R J H W K select group of advocates and civil society organisations in the United Kingdom (UK) to discuss recent asylum reforms and lessons which might be learned from the Australian experience of similar practices.

This report provides a record of the discussion and links to materials mentioned during the meeting and other resources.

Introduction

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and which the UK is seeking to emulate.

Most importantly, the processing of asylum claims during this first period was done by either the UN High Commissioner for Refugees (UNHCR) or Australian immigration officials, applying the UNHCR procedures and standards used around the world,<sup>1</sup> and people found to be refugees were either permitted to return to and settle in Australia, or resettled in a third country.<sup>2</sup>

The second period of offshore processing began in 2012. This time around, Australia has gone to great lengths to maintain the fiction that offshore processing is entirely a matter for the

Australia has tried to maintain that the processing of asylum claims is wholly a matter for those States, despite Australia having played a significant role in establishing, funding and running those systems.<sup>3</sup>

The other major difference relates to durable solutions. When offshore processing was first reintroduced in August 2012 there was no clear answer as to what would happen to people found to be refugees. In July 2013 this answer came when the Rudd Labor government established the rule that no person found to be a refugee in Nauru or PNG would ever be permitted to settle in Australia.<sup>4</sup> But nor were any other suitable settlement alternatives available.

This bar on settlement in Australia is the main reason why there is still offshore processing today. Asylum seekers were only transferred offshore for a relatively brief period from August 2012 to mid-2014.<sup>5</sup> After that, the Australian government pivoted away from offshore SURFHVV LQJ LQ IDYRXU RI ERDW WXUQEDFNV 7KLV LV V X H V K F issue drags on because of the people who arrived back then remain stuck in limbo waiting for a durable solution.

Further information:

- x ~~\$ X V W U D O L D T V R I I V K R U H S U R F H V V L Q J L Q I D Y R X U R I E R D W W X U Q E D F N V 7 K L V L V V X H V K F~~ established by David Quigley's memoranda of understanding (MOUs) with Nauru and PNG. A first set of two MOUs founded the policy in August and September 2012. These agreements were superseded by a second set of two 0 2 8 V D Q G D μ 5 H J L R Q D O 5 H V I \$ U U D Q J H W H P Q W T July and August 2013, giving effect to the Australian policy change preventing settlement of refugees in Australia. Links to these documents can be found on the Kaldor Centre website at <https://www.kaldorcentre.unsw.edu.au/bilateral-agreements-offshore-processing>
  
- x For more information about the circumstances surrounding the reintroduction of offshore processing in 2012, and the first four years of the policy, see: Madeline Gleeson, *Offshore: Behind the Wire on Manus and Nauru* (NewSouth, 2016).

of boat arrivals.<sup>6</sup> But all of these policies have become linked politically. The former government<sup>7</sup> pushed the narrative that any movement on any of these policies would



The bulk of effort and time was immediately put into making another site operational. The Director tasked me with ensuring the men in the prison were being looked after.<sup>15</sup> There were about 153 men placed into a prison that had capacity for perhaps a quarter of that number. Men were sleeping head to toe, 20 to a cell that was intended for no more than four. At the time, I remember feeling like the prison resembled an animal holding facility, only the animal holding facilities I had visited were much better.

- x A review into the 2013 riot in Nauru later identified uncertainty about processing asylum claims and lack of oversight by the relevant Australian Department as major causes of the incident.<sup>16</sup>
- x O D U N , V D D F N a u r u B u r n i n g (NewSouth, 2016), investigates the events leading up to the 2013 Nauru riot and its aftermath.
- x Other serious incidents in the context of offshore processing included:
  - o a deadly riot on Manus Island in 2014, which occurred when PNG police and locals entered the centre after days of escal

During consultations with the men, women, and children seeking asylum and refuge, I began to gain an insight into the psychological damage inflicted on them by not knowing their future or feeling like they had any freedom or agency. One patient told me how they felt that if the Australian government could control their breathing, it would be in charge of that too. We found that having a lack of control over their life was associated with patients experiencing PTSD, GHSUHVLRQ DQ[LHW\ VXLFLGDO WKRXJKWV DQG VXLFLGH D steadily deteriorated, including their ability to care for themselves.

The severity and extent of mental illness among the people detained on the island was exemplified when a cluster of children developed a rare life-threatening psychiatric condition known as resignation syndrome. Ten children presented to us with symptoms of depression and social withdrawal, before progressing to refusing food and fluids, becoming bed bound, mute, and unresponsive. When children reach this life-threatening state, they require extended hospitalisation for supportive physical care, including nasogastric feeding, and psychiatric care. In Nauru this care was not available, and parents had to watch their child deteriorate while the slow process for seeking a transfer to Australia for care went through the FRXUW V\VWHP 7KH SDUHQWV¶ PHQWDO KHDOWK XQGHUVWDC this distressing situation.

Asylum seekers and refugees have generally experienced multiple traumas, first in their home country and then often during their migration journey. The asylum seekers and refugees we

suffering they observed on Nauru. The report is available here:  
<<https://www.msf.org/indefinite-despair-report-and-executive-summary-nauru>>.

- x Further information about the children presenting in Nauru with resignation syndrome is available at O D E O H L I C @ i n f o . n e t . The Indefinite Despair report (see above),





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rejecting the findings of United Nations bodies,<sup>40</sup> and attacking the Australian Human Rights Commission over its role in scrutinising asylum policy.

One particularly important strategy was getting MSF to Nauru. Another strategy was a legal



