



PUNISHMENT NOT PROTECTION

AUSTRALIA'S TREATMENT OF REFUGEES AND ASYLUM SEEKERS
IN PAPUA NEW GUINEA

AMNESTY
INTERNATIONAL



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CONTENTS

1. BACKGROUND	5
1.1 METHODOLOGY	6
2. THE TRANSFER	7
2.1 THE NEWER CENTRES	8
2.1.1 THE EAST LORENGAU TRANSIT CENTRE (ELTC)	9
2.1.2 HILLSIDE HAUS AND WEST LORENGAU HAUS	11
3. NOT SAFE OR SUSTAINABLE	13
3.1 VIOLENCE AND SAFETY CONCERNS	14
3.1.1 LORENGAU, MANUS ISLAND	15
3.1.2 PORT MORESBY	17
3.2 INADEQUATE POLICE RESPONSE	18
3.3 FAILED SETTLEMENT	20
3.4 LACK OF CLEAR PLANS FOR INTEGRATION	21
4. NO OTHER OPTIONS	23
5. INTERNATIONAL HUMAN RIGHTS LAW	26
5.1 THE RIGHT TO LIBERTY AND SECURITY OF THE PERSON	27
5.2 RIGHT TO HIGHEST ATTAINABLE STANDARD OF PHYSICAL AND MENTAL HEALTH	28
6. CONCLUSION AND RECOMMENDATIONS	29

GLOSSARY

WORD	DESCRIPTION
DIBP	Department of Immigration and Border Protection (Australia)
ICSA	Immigration and Citizenship Service Authority (PNG)
ABF	Australian Border Force (Australia)
IHMS	International Health and Medical Services, service provider contracted by the Australian government to provide health care to refugees and asylum seekers.
PNG	Papua New Guinea
ELTC	East Lorengau Transit Centre
RPC	Regional 'Processing' Centre at Lombrum, from which refugees were forcibly removed on 23 and 24 November 2017.
UNHCR	United Nations High Commissioner for Refugees
PMV	Private Motorised Vehicles, usually mini vans which can take around 15 passengers at a time.
REFUGEES	A refugee is a person who has fled their own country because they are at risk of serious human rights violations there. Because their own government cannot or will not protect them, they are forced to seek international protection.
ASYLUM SEEKERS	Those who originally sought asylum in Australia and were forcibly sent to Papua New Guinea and have not been assessed as refugees. Amnesty International refers to these people as 'asylum seekers' as they have not had their claims assessed in a fair process, including the right to appeal their assessment with the assistance of legal representation.

1. BACKGROUND

In 2013, the Australian government took the extreme step of establishing offshore detention centres on the Pacific island nations of Papua New Guinea (PNG) and Nauru for people seeking asylum in Australia by boat. This Australian system is known as “offshore processing,” and around 2000 people are currently trapped within it.

Determined to deny entry to anyone arriving irregularly to Australia by boat, hundreds of male refugees and asylum-seekers have been confined in cruel and degrading conditions in Papua New Guinea for the past four and a half years. Even though 610 of the more than 800 men on PNG’s Manus Island have been assessed as refugees under a process set up by both the Australian and PNG governments, Australia continues to refuse them the protections they are entitled to under its obligations to the Convention Relating to the Status of Refugees (Refugee Convention) and remains adamant that they will never be settled in Australia. With no protection, poor healthcare, and high levels of violence, PNG is not a safe place for asylum seekers and refugees to settle.

Asylum-seekers and refugees on PNG currently languish in limbo. In April 2016, the PNG Supreme Court ruled that the detention of refugees and asylum seekers on Manus Island was illegal. Instead of complying with this ruling, the Australian government resorted to coercive measures. On 31 October 2017, it withdrew all support services for the refugee detention centre, in an attempt to force the inhabitants out of the camp and move to a planned new centre nearer to Lorengau town. Refugees stayed and held peaceful protests calling for their safety and freedom, fearful that the move closer to town would expose them to greater risks of unchecked violence by the local population, as has been seen in the past. Contractors, under instructions from the Australian government, cut power, water, food and medical supplies. The refugees were left to fend for themselves, digging water wells and making night journeys to search for food. Those with urgent medical needs, including a person with a serious heart condition, had no access to medical assistance at the detention centre.

On 23 and 24 November, PNG police and immigration officials raided the camp. Armed with sticks and knives, they yelled at refugees, threatened them with violence, dragged them out of the camp and onto buses. The refugees were taken to three newer, but poorly resourced, centres, some parts of which were still under construction, with interrupted supplies of electricity and water. The road to one new site has been blockaded several times by the landowner, who is demanding more money, thwarting access for contractors providing food and security to the refugees.

In these newer centres, the refugees are at risk of violence from the local community and the authorities, who have disavowed responsibility for them. At two of the centres, there is no secure perimeter fence and refugees continue to face threats of violence from the local community, whose homes are right next to the new centre.

The PNG authorities have previously failed to protect the refugees from violent attacks or hold perpetrators accountable for violence. No one has faced charges following an incident in April 2017 when the military fired shots directly into the refugee camp, endangering people’s lives. Other complaints of violence have not been independently investigated by the authorities or resulted in accountability, fuelling a culture of impunity.

In the PNG capital of Port Moresby, police officers - and people claiming to be police officers – have extorted bribes from some refugees. Both state and non-state actors have been responsible for acts of violence against refugees. Against this backdrop – in a country that has among the highest levels of gender-based

violence anywhere outside a conflict zone¹ – the safety of refugees and asylum seekers cannot be guaranteed anywhere in PNG.

In their prolonged detention, having suffered the trauma of witnessing violence in the camp and denied access to adequate healthcare, many asylum-seekers and refugees have seen their mental health sharply deteriorate. Around 88% of refugees are suffering from depressive or anxiety disorder and or post-traumatic stress disorder.² Between August and October 2017, two people died in suspected suicides. In Port Moresby, refugees described suffering from chronic and persistent health conditions that cannot be properly treated in the country. In these circumstances, including where doctors and humanitarian organizations have been denied access to the camps and where there is little prospect of health conditions improving, further deaths seem inevitable.

Australia has used a calculated system of neglect and cruelty to increase the hardship suffered by refugees and asylum seekers but remains responsible for their fate and well-being. It cannot shirk its responsibility, shifting them from one detention centre to several others, in a cynical attempt to conceal the illegality of its practices. Nor can it offload that responsibility onto PNG, which is both unwilling and unable to settle refugees safely and with dignity. The only option left for Australia is to end its harmful offshore processing policies and bring those who sought asylum in its territory back there, or allow and facilitate them to settle in other safe countries.

1.1 METHODOLOGY

Amnesty International researchers visited Manus Island and Port Moresby in PNG from 26 October to 7 November 2017 and spoke with over 55 refugees and asylum seekers, all of whom are men. Some of the refugees on Manus were based at the Regional ‘Processing’ Centre (RPC) at Lombrum and others were based at the East Lorengau Transit Centre (ELTC) at Lorengau. At the time Amnesty International left Manus Island on 2 November, no one was staying at the new facilities Hillside Haus and West Lorengau Haus – as the site was still under construction.

Refugees and asylum seekers we spoke to in Port Moresby were staying in local hotels or other accommodation for refugees. There was a heavy security presence – both of police and private contractors – at all sites where refugees and asylum seekers are held in PNG. Amnesty International visited each of the sites for detaining refugees and asylum seekers, but was refused access inside the ELTC, Hillside Haus and West Lorengau Haus by Paladin Solutions (a private security contractor)³ and PNG Immigration officials. Amnesty International visited refugees at the RPC on 31 October 2017, on the day that Australian officials and contractors pulled out of the facility, and spoke with a number of refugees on that day.

As the situation remains fluid, Amnesty International has received updates from refugees and other contacts through follow up interviews after our visit. Numbers of refugees residing at various centres may have varied since our visit.

Amnesty International thanks the refugees and asylum seekers who were brave enough to meet with us, in spite of the stress of the forced closure of the RPC. Amnesty International also thanks UNHCR, the PNG government and Australian government officials who met with us in Port Moresby and Canberra, Australia.

¹ Medics Sans Frontiers, *Return to Abuser*, 1 March 2016, available at <http://www.doctorswithoutborders.org/article/special-report-return-abuser>

² UN High Commissioner for Refugees (UNHCR), *Submission by Office of the High Commissioner for Refugees on the Inquiry into the Serious Allegations of Abuse, Self-Harm and Neglect of Asylum-seekers to the Nauru Regional Processing Centre, and any like Allegations in Relation to the Manus Regional Processing Centre Referred to the Senate Legal and Constitutional Affairs Committee*, 12 November 2016, available at: <http://www.refworld.org/docid/591597934.html>

³ Paladin Solutions, a PNG based private security company, started working at PNG refugee detention centres in around October 2017.

2. THE TRANSFER



Map showing the location of the refugee detention centres on Manus Island.

After the PNG Supreme Court declared the detention of refugees and asylum seekers unlawful in April 2016,⁴ the Australian government announced it would close the original refugee detention centre (known as the RPC on Lombrum Naval Base) on 31 October 2017. The date, nearly 18 months after the court decision, coincided with the end of the contracts with service provider Broadspectrum, who were running the centre on behalf of the Australian government.⁵

Instead of facilitating an orderly and peaceful transfer to newer centres, which were incomplete at the time of our visit and the 31 October deadline, the Australian government devised a plan to progressively wind back services and facilities at the centre in order to coerce refugees to move on their own.⁶ Refugees described to Amnesty International how facilities and services were culled in the months preceding the 31 October deadline, including by cutting power to certain parts of the centre, removing recreational facilities and reducing bus services to town.⁷

Around a week prior to the closure refugees received medications to last three weeks and were told they would have to move to the newer centres to access additional medication or receive health care. Two days

⁴ *Namah and Others vs National Executive Council and the State of Papua New Guinea* (2016) SC1497, available at https://uploads.guim.co.uk/2016/04/26/PNG_SC_judgement.pdf

⁵ Ben Doherty, *Detention centre operator's contract extended despite owner's objection*, The Guardian, 8 August 2016, available at <https://www.theguardian.com/australia-news/2016/aug/08/detention-centre-operators-contract-extended-despite-owners-objection>

⁶ Behrouz Boochani, Ben Doherty and Nick Evershed, *Revealed: Year long campaign to make conditions harsher for refugees*, The Guardian 16 May 2017, available at <https://www.theguardian.com/australia-news/2017/may/17/revealed-year-long-campaign-to-make-conditions-harsher-for-manus-refugees>

⁷ Interview with group of refugees on Manus Island, 29 October 2017.

prior to the proposed closure refugees received food packs and water to last two days, after which time they were expected to move to newer centres closer to town.⁸

A large number of Australian service providers departed the centre in the early hours of the 31 October. Power was cut to the centre later that day, and generators were removed while refugees remained inside the centre.⁹

The refugees were in a precarious situation – many felt it was too dangerous to move closer to town and protests against the move by local community members reinforced these fears. Nor was it safe to stay. When the contractors left, they locked the doors at the front of the centre open, and the doors that back on to the ocean were locked shut leaving refugees vulnerable.¹⁰ Refugees feared an attack from the authorities, as had happened before, only months earlier in April 2017.¹¹

Between 31 October and 23 November, PNG officials entered the RPC and sabotaged water tanks and cut pipes in a further attempt to coerce refugees to move.¹² Humanitarian efforts to deliver food and other assistance to the 600 or so refugees stranded at the centre were blocked by the PNG security forces.¹³ The situation was a humanitarian crisis of the Australian and PNG governments' own making. Fearful of moving because of past acts of violence, refugees remained at the RPC and relied on dwindling food, water and medicine supplies for just over three weeks.

On 23 and 24 November, PNG police and immigration officials went into the centre and forcibly removed refugees from the Lombrum RPC and took them to the ELTC or Hillside Haus/West Lorengau Haus. Refugees have shared videos and photos with Amnesty International showing PNG officials armed with metal poles, beating a refugee and destroying property. A number of refugees shared images with Amnesty International of cuts, bruises and other minor injuries they say were received as a result of violence during the transfer.

The transfer was carried out in a demeaning and deeply humiliating manner – with refugees forced to relocate to newer, but still temporary, sites that were also poorly equipped, overcrowded, unsafe and lacking in basic services such as water and power. In effect, the refugees and asylum seekers have been shuttled from one prison-like centre to several others, with no improvement to their situation.

The apparent 'withdrawal' of Australian government support and services has created chaos and confusion as to who is now managing the newer facilities. While Australia remains in effective control of the refugee arrangements, directing PNG authorities and private contractors from behind the scenes, their absence has increased the hardship for refugees, asylum seekers and the local community by cutting off direct access for them to raise concerns about health care, facility management and safety and security. Essentially, refugees have been abandoned to additional layers of bureaucracy, making it hard to believe that this is not a deliberate attempt to increase their suffering.

2.1 THE NEWER CENTRES

All refugees have now moved from the RPC to either Hillside Haus, West Lorengau Haus or the East Lorengau Transit Centre (ELTC), where they continue to face challenges, including prolonged uncertainty about their future, lack of safety and security, and restrictions on their freedom of movement. The imposed restrictions are compounded by well-founded fears of violence should refugees go outside the confines of these centres.

In addition, disputes involving the landowner, rival security contractors and the local community have continued to play out at the newer centres because of the lack of well managed transition plans and engagement with the local community. This has resulted in protests and road blocks at the site of the newer

⁸ Interview with Asheel and Abdul (not their real names) on Manus Island on 28 October 2017; Interview with group of refugees on Manus Island, 29 October 2017.

⁹ Interview with group of refugees, Manus Island on 29 October 2017.

¹⁰ Interview with group of refugees, Manus Island on 31 October 2017.

¹¹ Amnesty International, *Australia/PNG: In the firing line*, May 2017, available at <https://www.amnesty.org/en/latest/news/2017/05/australia-papua-new-guinea-immigration-depts-claims-about-shooting-on-manus-island-refuted/>

¹² Liam Fox, *Manus Island standoff continues, water supplies destroyed*, ABC, 13 November 2017, available at <http://www.abc.net.au/news/2017-11-13/manus-island-standoff-continues-water-supplies-destroyed/9145528>

¹³ Nicole Hasham, *Manus authorities 'turn away food aid' as humanitarian crisis deepens*, The Sydney Morning Herald, 3 November 2017, <http://www.smh.com.au/federal-politics/political-news/starvation-manus-authorities-turn-away-food-aid-as-humanitarian-crisis-deepens-20171103-gze7nm.html>

centres,¹⁴ leaving refugees more fearful for their safety and at times hindering their ability to leave the centre, or have service providers come to them.¹⁵

MANUS ISLAND

Manus Island is part of Manus Province in Papua New Guinea. It is located north of the mainland, close to the equator and has a tropical climate.

Lorengau is a small town with a population of around 7,000 people. It has a hospital which caters to the whole province, including several outer islands. A UNHCR report noted that the relocation of the refugee population to newer centres results in around an 8% increase in the population size for Lorengau, increasing the strain on already stretched resources for the local population, especially the hospital now that refugees and asylum seekers are expected to seek and receive treatment there.¹⁶

Lorengau has only one pharmacy and one large supermarket after a second supermarket burned down in September 2017, killing 10 people.¹⁷ There are also several smaller shops and a market where locals sell food, produce and handicrafts. As a remote island, Manus relies on periodic shipments to bring in food, medicine, fuel and other essential items that cannot be locally sourced – meaning that some items are at times unavailable or costly.

2.1.1 THE EAST LORENGAU TRANSIT CENTRE (ELTC)



¹⁴ Eric Tlozek, *Manus: Police lift Manus Island blockade over sewerage problem*, Australian Broadcasting Corporation, 14 January 2018, available at <http://www.abc.net.au/news/2018-01-14/police-lift-manus-island-blockade-over-sewerage-problem/9327744>; and Radio New Zealand, *Road to refugee transit centre on PNG's Manus blocked*, 19 December 2017, available at <https://www.radionz.co.nz/international/pacific-news/346539/road-to-refugee-transit-centre-on-png-s-manus-blocked>

¹⁵ See Ben Doherty, *Dutton refuses senate order to release details of refugee services contracts on Manus*, The Guardian, 18 January 2018, available at <https://www.theguardian.com/australia-news/2018/jan/18/dutton-refuses-senate-order-to-release-details-of-refugee-services-contracts-on-manus>; Radio New Zealand, *Road to refugee transit centre on PNG's Manus blocked*, 19 December 2017, available at <https://www.radionz.co.nz/international/pacific-news/346539/road-to-refugee-transit-centre-on-png-s-manus-blocked>; and interview with Behrouz Boochani, 18 January 2018.

¹⁶ UNHCR, *Medical Expert Mission PNG: 10 to 16 November 2017*, available at <http://www.unhcr.org/en-au/5a3b0f317.pdf>

¹⁷ Radio New Zealand, *Supermarket Fire on PNG's Manus Island Kills 10*, 23 September 2017, <https://www.radionz.co.nz/international/pacific-news/340057/supermarket-fire-on-png-s-manus-island-kills-10>

Around 280 people are at this centre.¹⁸ By the end of November 2017, there were around 400 refugees and asylum seekers living at this centre, with some staying in a classroom or common room area due to a lack of sufficient completed rooms for all the refugees at the newer centres. The ELTC was completed in July 2014, but was originally built to only accommodate 298 people.¹⁹ Overcrowding has been alleviated somewhat since Amnesty International's visit by further construction being completed at West Lorengau Haus and other refugees being transferred to Port Moresby in December 2017.²⁰

There is an International Health and Medical Services (IHMS) medical clinic on site, but this is much smaller than the previous facilities at the RPC and refugees are now expected to purchase from their allowance or own funds medications from a pharmacy in town or rely on the over-stretched hospital for emergencies and after-hours health care.²¹ Previously IHMS would distribute all medications on site and provide extensive medical care to refugees and asylum seekers.

Refugees told Amnesty International that they cook their own meals but receive a weekly allowance from the PNG Immigration and Citizenship Service Authority (ICSA) if they have been able to set up a local bank account. They receive a food package on Tuesdays and Fridays that includes 1-2 packets of milk, 3-4 sugar packets, rice or pasta, bread, meat and vegetables.²²

Refugees who open a bank account are entitled to receive 100 PGK (\$31 USD) as a weekly allowance to supplement food, and purchase other items such as phone credit, medicine and clothing. Refugees can only set up a bank account with the assistance of PNG Immigration officials. The refugees who receive the allowance told Amnesty International the funds were not sufficient to be able to call their families and purchase essential items such as food and medication.²³

UNHCR noted in November 2017 that many refugees had not received the allowance for up to four weeks, meaning refugees were unable to purchase medications, phone cards or food. They further noted that certain medications would be unavailable or unaffordable in PNG.²⁴ Amnesty International understands that most refugees are now receiving this allowance in January 2018.

¹⁸ Information provided by refugee on 11 January 2018; see also UN High Commissioner for Refugees, *Fact Sheet on Situation of Refugees and Asylum-Seekers on Manus Island, Papua New Guinea*, 15 December 2017, available at <http://www.unhcr.org/5a38d18d4.html> and UN High Commissioner for Refugees, *Fact Sheet on Situation of Refugees and Asylum-Seekers on Manus Island, Papua New Guinea*, 21 January 2018, available at <http://www.unhcr.org/5a6512507.html>

¹⁹ *Manus Refugee Transit Centre Project*, Decmil, available at <https://decmil.com/project/manus-refugee-transit-centre-lorengau/>

²⁰ Ben Doherty, *Manus Island: 60 refugees to be moved to Port Moresby for US interviews*, The Guardian, 8 December 2017, <https://www.theguardian.com/australia-news/2017/dec/08/manus-island-50-refugees-to-be-moved-to-port-moresby-for-us-interviews>

²¹ UNHCR, *Medical Expert Mission PNG: 10 to 16 November 2017*, available at <http://www.unhcr.org/en-au/5a3b0f317.pdf>


²² Interview with refugees on Manus Island, 29 October 2017.

²³ Interview with refugees on Manus Island, 29 October 2017.

²⁴ UNHCR, *Medical Expert Mission PNG: 10 to 16 November 2017*, available at <http://www.unhcr.org/en-au/5a3b0f317.pdf>, at p5.

2.1.2 HILLSIDE HAUS AND WEST LORENGAU HAUS



 ↑ Aerial footage of Hillside Haus and West Lorengau Haus taken from a drone. The long building in the top left is Hillside Haus, and the construction areas in the foreground is West Lorengau.²⁵ ©SBS

Hillside Haus and West Lorengau Haus are just over five kilometres from Lorengau town. Hillside Haus is an existing building, while West Lorengau Haus, still under construction at the time of Amnesty International's visit, is accommodation built from shipping containers.

As at January 2018, around 142 men were living in West Lorengau Haus and around 114 in Hillside Haus.²⁶ According to the Australian government, Hillside Haus is built to accommodate up to 120 people and West Lorengau Haus can currently accommodate 100 people.²⁷ West Lorengau Haus is, however, expected to have capacity for up to 300 people when complete.²⁸

A UNHCR Medical Expert Mission report from mid November 2017 described the facilities at West Lorengau Haus and Hillside Haus as “incomplete, sub-standard accommodation and unsanitary facilities” that lack appropriate toilet, bathroom and laundry facilities for the refugees.²⁹ Overcrowding at all sites poses risks for individuals ‘of rapid spread of infectious respiratory or gastrointestinal illnesses’.³⁰ There are no medical facilities on site and no recreation spaces for refugees.³¹

On 21 November 2017, UNHCR issued a statement highlighting challenges related to this site, including that it was largely still under construction, it lacks adequate medical or functioning laundry facilities, has an inconsistent water and power supply and there are problems with meal distribution. UNHCR also mentioned local contractual disputes over service provision, lack of security and tensions with the local community.

²⁵ Stefan Armbruster, *Exclusive drone footage Manus Island transit centres*, SBS, 16 November 2017, available at <https://www.sbs.com.au/news/article/2017/11/16/exclusive-drone-footage-manus-island-transit-centres>

²⁶ UN High Commissioner for Refugees, *Fact Sheet on Situation of Refugees and Asylum-Seekers on Manus Island, Papua New Guinea*, 15 December 2017, available at <http://www.unhcr.org/5a38d18d4.html> and UN High Commissioner for Refugees, *Fact Sheet on Situation of Refugees and Asylum-Seekers on Manus Island, Papua New Guinea*, 21 January 2018, available at <http://www.unhcr.org/5a6512507.html>

²⁷ Interview with Australian High Commission, Port Moresby, 6 November 2017.

²⁸ Interview with DIPB, Canberra, 14 November 2017.

²⁹ UNHCR, *Medical Expert Mission PNG: 10 to 16 November 2017*, available at <http://www.unhcr.org/en-au/5a3b0f317.pdf>

³⁰ UNHCR, *Medical Expert Mission PNG: 10 to 16 November 2017*, available at <http://www.unhcr.org/en-au/5a3b0f317.pdf> at p 4.

³¹ See Nai Jit Lam, *Australia urged to ensure protection, assistance and solutions refugees Manus*, UNHCR, 21 November 2017, <http://www.unhcr.org/news/briefing/2017/11/5a1465d14/australia-urged-ensure-protection-assistance-solutions-refugees-manus-island.html>; also UNHCR, *Medical Expert Mission PNG: 10 to 16 November 2017*, available at <http://www.unhcr.org/en-au/5a3b0f317.pdf>

Specifically mentioned was an incident where a local person entered the facility and turned off a generator at night because it was too noisy, and an incident of a road block on the access road to West Lorengau Haus.³²

UNHCR have continued to highlight in December 2017 and January 2018 the ongoing safety and security concerns, lack of sufficient functioning toilet and bathroom facilities for the population size, sanitary and health concerns, lack of co-ordination between contract providers and tensions with the local community as ongoing problems. The disparity in living conditions between the ELTC and the new centres is creating tensions between refugees.³³

³² Nai Jit Lam, *Australia urged to ensure protection, assistance and solutions refugees Manus*, UNHCR, 21 November 2017, <http://www.unhcr.org/news/briefing/2017/11/5a1465d14/australia-urged-ensure-protection-assistance-solutions-refugees-manus-island.html>

³³ UN High Commissioner for Refugees, *Fact Sheet on Situation of Refugees and Asylum-Seekers on Manus Island, Papua New Guinea*, 15 December 2017, available at <http://www.unhcr.org/5a38d18d4.html> and UN High Commissioner for Refugees, *Fact Sheet on Situation of Refugees and Asylum-Seekers on Manus Island, Papua New Guinea*, 21 January 2018, available at <http://www.unhcr.org/5a6512507.html>

3. NOT SAFE OR SUSTAINABLE

Settlement in PNG is not a safe or sustainable option for refugees. Refugees and asylum seekers have experienced violence and discrimination in the community, been left homeless, struggled to find work in the country or have faced government interference with job opportunities and work permits where they have. As a result, most are struggling on a meagre living allowance (considering they are still regarded as ‘foreigners’ living in PNG) and have limited social or economic support for meaningful integration.

Of the crimes reported to Amnesty International by refugees, assaults were frequently reported on Manus, while robberies were more common in Port Moresby. While Manus is generally considered a more peaceful province than other parts of the country, tensions have arisen due to the lack of consultation or engagement with the local community, lack of understanding of cultural differences and the increased pressure on already stretched community resources. In addition, the perception of refugees as wealthy migrants has further fuelled a sense of inequality.

In a report by the Australian Council for International Development, PNG officials acknowledged only ‘a handful’ of refugees living in the community are self-sufficient.³⁴ In spite of this, the PNG government has not provided all refugees with regular status, access to travel and identity documents or the ability to work long term, undermining any claims that they are successful settlement examples in the country.

After having nearly five years to develop policies for refugees willing to stay in the country, PNG has failed to implement any effective measures for the long term settlement of refugees. PNG (and indeed Australia) could have benefitted immensely from the increased diversity and skills offered by refugees, but has demonstrated a lack of political will to do so.

³⁴ Purcell, Costello, Quartermaine, Blyberg, Ralph, *Refugees on Manus: An impending mental health crisis*, Australian Council for International Development, 28 November 2017, available at <https://acfid.asn.au/sites/site.acfid/files/ACFID%20Fact%20Finding%20Mission%20to%20Manus%20FINAL.pdf> at p11.

LIFE IN PAPUA NEW GUINEA – EXTREMELY HIGH VIOLENCE AND A HIGH COST OF LIVING

Papua New Guinea has a population of around 7.4 million people and the nation is comprised of over 800 ethnic and linguistic groups. These linguistic groups, known as 'wontoks', create a close knit and traditional society around those who speak the same language. The wontok system offers an informal network of social support and a degree of protection for locals, which does not usually extend to outsiders.

PNG faces a range of challenges as a developing nation, including high levels of poverty and subsistence living, low levels of formal employment, rapid urbanisation and population growth, poor infrastructure development and a struggling health care system.

Port Moresby also has high levels of violent crime and a high cost of living. Renting a one bedroom apartment can cost between 4,000 and 6,000 PGK per month (1,200 – 1,800 USD); a standard meal at an inexpensive restaurant costs 40 PKG (12 USD).³⁵ As a result, more than half of the city's population live in informal squatter settlements, without a proper connection to water, sewerage or electricity.³⁶

In a 2017 Country Report, the Australian Department of Foreign Affairs described the overall crime rate in Papua New Guinea as 'extremely high' particularly in Port Moresby and other major cities. Car-jackings, armed robberies, sexual violence and assaults are common with firearms sometimes used.³⁷

Violence is often random, but certain people may be more vulnerable because of their gender, sexuality,³⁸ ethnicity, or inequality. For refugees, the risks are exacerbated because racial discrimination and tensions with the local community.³⁹

The PNG Police force faces a range of challenges which means proper investigations do not always take place when a crime is reported. This includes lack of human and financial resources, lack of training, and allegiance to the 'wontok' system where police use their position to protect their own relatives, bribery and a lack of independent mechanisms to hold police accountable.⁴⁰

3.1 VIOLENCE AND SAFETY CONCERNS

“Local people agree this place is not safe for (it’s) own people – especially at nights and weekends.”

Group discussion with refugees, Manus Island, 29 October 2017.

Refugees and asylum seekers reported robberies and assaults in both Lorengau and Port Moresby, with many saying they did not feel safe to leave the centres, or the hotels where they were staying. When refugees have reported such crimes to the police, they were rarely investigated or properly prosecuted, resulting in impunity for such crimes. As a result, many refugees said they had lost faith in the police to take any action. In addition, some refugees and asylum seekers in Port Moresby said they had been asked for bribes when reporting crimes to the police.

³⁵ Numbeo, *Cost of living in Port Moresby*, October 2017, available at <https://www.numbeo.com/cost-of-living/in/Port-Moresby>

³⁶ UN Habitat, *PNG: Port Moresby Urban Profile*, United Nations, 2010, available at <https://unhabitat.org/books/papua-new-guinea-port-moresby-urban-profile/>

³⁷ Australian Department of Foreign Affairs and Trade, *DFAT Country Information Report*, 10 February 2017, available at <http://dfat.gov.au/about-us/publications/Documents/country-information-report-papua-new-guinea.pdf>; and UN Human Rights Council, *Report of Special Rapporteur on Extrajudicial, summary and arbitrary executions Christof Heyns: Mission to PNG (3-14 March 2014)*, 30 March 2014, A/HRC/29/37/Add.1, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/066/61/PDF/G1506661.pdf?OpenElement>

³⁸ See Amnesty International report on the rights of sex workers for further discussion the challenges faced by women, gay and transgender people in PNG who experience stigma, social isolation and violence because of their gender or sexuality, *Outlawed and Abused: Criminalizing sex work in PNG*, Amnesty International, May 2016, available at <https://www.amnestyusa.org/reports/outlawed-and-abused-criminalizing-sex-work-in-papua-new-guinea/>

³⁹ *Submission by UNHCR: For UN OHCHR Compilation Report UPR*, UNHCR, November 2010, available at <http://www.refworld.org/pdfid/571f2cb44.pdf>

⁴⁰ Australian Department of Foreign Affairs and Trade, *DFAT Country Information Report*, 10 February 2017, available at <http://dfat.gov.au/about-us/publications/Documents/country-information-report-papua-new-guinea.pdf>; and UN Human Rights Council, *Report of Special Rapporteur on Extrajudicial, summary and arbitrary executions Christof Heyns: Mission to PNG (3-14 March 2014)*, 30 March 2014, A/HRC/29/37/Add.1, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/066/61/PDF/G1506661.pdf?OpenElement>

Refugees in Lorengau and Port Moresby stand out in an otherwise close-knit traditional community making them an easy target for crimes and violence. In addition, the meagre refugee allowance, for those who get it, means that they cannot afford to use safe and secure means of transport. Refugees and asylum seekers in Lorengau and Port Moresby must walk or rely on local transport (PMVs), which are unsafe.⁴¹

Refugees have been held in a highly securitised environment for nearly five years, and have faced violence and attacks both in the community and within the apparent security of these compounds. For some, warnings by the guards and other refugees about the risks outside, were enough to deter them from venturing any further.

“Here they are telling us if you go outside it is at your own risk, so I feel it is not safe.”⁴²

A number of refugees mentioned past incidents of violence, including Reza Berati’s murder in February 2014 when locals and contractors attacked the refugee centre, leaving a number of refugees injured, as well as an incident in April 2017 when the PNG Defence Force fired shots into the centre, as reasons why they did not feel safe in PNG.⁴³ In addition, a number of refugees we spoke to at Lombrum on 28 November 2017 told us they feared being arrested and detained in police cells again and that they were targeted as ringleaders for protests.⁴⁴ Several refugees mentioned they had been detained by the police in prison and police cells, in a January 2015 incident that saw at least 40 refugees arrested and detained for up to a month following a protest and hunger strike.⁴⁵ Refugees were later released without charge, but told Amnesty International they were fearful of further arrests.

The Australian government policies of segregating and isolating refugees and asylum seekers away from the local community has heightened tensions and increased the risk of violence. For example, the failure to consult or engage the local community over building the new refugee centres at Hillside Haus and West Lorengau Haus, as well as relying on already stretched community resources like the Lorengau Hospital, only fuels resentment that locals feel towards refugees and asylum seekers, especially where very little benefit has passed on to the local community for hosting refugees. UNHCR has noted that tensions between the local community and refugees and asylum seekers had not dissipated in the aftermath of the November 2017 move.⁴⁶ Local police have advised refugees and asylum seekers to return to their accommodation by 6pm each evening to mitigate security risks.⁴⁷

3.1.1 LORENGAU, MANUS ISLAND

Refugees and asylum seekers told us that they do not travel into town alone, but go with their friends for safety. In spite of this, almost all of the refugees we spoke to said they or someone they knew had experienced violence or robberies in Lorengau town, including having phones or cash stolen from them. Many felt that the police did not take them seriously when they did report these crimes.

Some refugees said it was better when they were given a cash allowance each week, so they didn’t have to go to the bank machine where they felt it was dangerous. In order to receive their allowance now, they need to open a bank account with the assistance of PNG ICESA and go to the automatic teller machine in town. Two Somali refugees said, “We came here (to the ELTC) but we are really afraid. Inside it is safe, but the market is very dangerous. They say go to the bank, but the locals will beat us up.”⁴⁸

⁴¹ See chapter 3.2 Port Moresby below.

⁴² Interview with Rasheed (not his real name), Port Moresby, 3 November 2017.

⁴³ Interview with refugees, 28 October 2017 and 31 October 2017, Lombrum RPC.

⁴⁴ Behrouz Boochani, Iranian refugee and journalist was detained for a few hours by the police before being removed to East Lorengau Transit Centre on 23 November. Behrouz has reported that he was physically restrained and pushed by the police, who told him off for reporting on the conditions within the camp. See Ben Doherty and Helen Davidson, *Refugee and journalist Behrouz Boochani arrested in Manus as squad steps in*, 23 November 2017, available at <https://www.theguardian.com/australia-news/2017/nov/23/refugee-and-journalist-behrouz-boochani-arrested-in-manus-as-squad-steps-in>

⁴⁵ Ben Doherty, *Arrested Manus protesters face jail conditions until refugee status decided*, The Guardian, 23 January 2015, available at <https://www.theguardian.com/australia-news/2015/jan/23/arrested-manus-protesters-face-jail-conditions-until-refugee-status-decided>

⁴⁶ Nai Jit Lam, *Australia urged to ensure protection, assistance and solutions refugees Manus*, UNHCR, 21 November 2017, <http://www.unhcr.org/news/briefing/2017/11/5a1465d14/australia-urged-ensure-protection-assistance-solutions-refugees-manus-island.html>

⁴⁷ UN High Commissioner for Refugees, *Fact Sheet on Situation of Refugees and Asylum-Seekers on Manus Island, Papua New Guinea*, 21 January 2018, available at <http://www.unhcr.org/5a6512507.html>

⁴⁸ Interview with two refugees, Manus Island, 1 November 2017.

CASE: JOINUL ISLAM, LORENGAU, MANUS ISLAND



Joinul Islam talks to Amnesty International on video about the violence he experienced in Lorengau

I am from Bangladesh. My name is Joinul Islam. I am 42.

I've been here for 5 years running. Because my country is not safe, I came to Australia, (to) Christmas Island, and I got sent to PNG.

I'm not coming to Lorengau because Lorengau is a very dangerous place. Three months ago, I came to Lorengau and someone cut my (arm). They took my mobile and my money. It's a very dangerous place...I don't like to come to Lorengau.

I came to do shopping at the market. I was outside, and some local people talked to me. They said, "Give to me your mobile and money." I didn't give it. And after that, they cut my (arm), then I fell down.

Lorengau Hospital told me, "This injury is very dangerous." He sent me to Lombrum. And after Lombrum, they sent me to Port Moresby. In Moresby, they sew it up...and inside, I have a rod and a screw. So I can't move my arm now. Maybe three months now (that I cannot move my arm).

Australia has stopped everything, they (Australian authorities) never give anything. No medication. No pain medication. Every night, I can't sleep. I'm asking for medication, but every night they say no. They don't have anything for me.

I would like to go to Australia. I want to come to a safe life. New Zealand. Any country.

Everyone deserves life. Everyone.



When we asked Joinul if he reported this violence to the police he said it is 'not my country. Police won't listen to me.' He said there had been many injuries and the police had done nothing. He said he now travels

only with his friends (he was with two other Bangladeshi asylum seekers at the time that he spoke to Amnesty International) and he only comes to town to buy food that he needs.

Asheek, a Pakistani refugee described how he was robbed when he went to Lorengau town:⁴⁹

“We can’t come to town alone. I was beaten a month ago in Ward Six (a suburb of Lorengau). I was going to buy a live chicken. I was on the phone, six people put a long knife to my neck. They stole my phone and looked for money. I told the police, but they said no and I didn’t file anything. Many people have been injured. No one is safe here, only in the (Lombrum) centre.”

Asheek may have been told that the police could not investigate his matter because he was unable to identify the perpetrators of the robbery (see Inadequate Police Response below).

A group of five Afghani refugees who spoke to Amnesty International near the ELTC on 28 October said, “many have been beaten, so we can’t take the risk going outside.” They felt it was most dangerous on a Friday, Saturday and Sunday, or after 4pm on any day. They did not report these cases to the police, as many cases have been reported and their perception was that the police do nothing in response. They told us they knew of five different people who had their phones stolen. One said that a knife was shown to him so he handed over his bag, with his phone in it. They also said they felt it was too risky to open a bank account and access the ATM in town.

These safety concerns have led refugees and asylum seekers to fear going into Lorengau. The violence was not only experienced in Manus, but also by refugees and asylum seekers in Port Moresby, highlighting that refugees are not safe anywhere in PNG.

3.1.2 PORT MORESBY

“It’s not safe. If we go outside they hit me, steal money, phone. They say to us you are a white man.”

Interview with Habib, Port Moresby, 3 November 2017.⁵⁰

Around 110 refugees have been in Port Moresby, some have been there for more than nine months, after being told they were sent there for medical treatment. Around 35 refugees are living in the community in PNG, a number of whom are in Port Moresby.⁵¹ In December, around 60 refugees were moved to Port Moresby for further interviews with the US government, who agreed to accept a number of refugees in an arrangement with the Australian government and departed for the US in January 2018 (see Chapter: No Other Options below).⁵² So, there are a total of 140 or so refugees and asylum seekers in Port Moresby, who face ongoing risks of violence and robbery.

Refugees and asylum seekers in Port Moresby told Amnesty International they frequently experienced robberies, threats and assaults – at least two refugees said they had been the victim of a crime on more than one occasion. Five refugees reported being robbed, and four refugees said they knew another refugee who had been robbed in Port Moresby. Some of the robberies in Port Moresby occurred in broad daylight.

Refugees not only stand out from locals, they were often targeted because they are foreigners. Flawed stereotypes – encouraged by the Australian government – that portray the men as wealthy economic migrants rather than refugees exacerbates the risk,⁵³ making them an easy target for crimes such as theft and robbery.

In three cases, refugees said that the police, or persons claiming to be police officers, attempted to extort them for money. After a refugee reported that his phone was stolen to the police, the police said that they

⁴⁹ Interview with Asheek (not his real name), Manus Island, 27 November 2017.

⁵⁰ Interview with Habib (not his real name), Port Moresby, on 3 November 2017.

⁵¹ Human Rights Watch, *PNG: Refugees face unchecked violence*, 25 October 2017, available at <https://www.hrw.org/news/2017/10/25/australia/png-refugees-face-unchecked-violence>

⁵² Ben Doherty, *Manus Island: 50 refugees to be moved to Port Moresby for US interviews*, 7 December 2017, available at <https://www.theguardian.com/australia-news/2017/dec/08/manus-island-50-refugees-to-be-moved-to-port-moresby-for-us-interviews>

⁵³ Michael Koziol, ‘Armani Refugees’: Peter Dutton accused of undermining US deal with ‘extraordinarily irresponsible’ critique, 29 September 2017, available at <http://www.smh.com.au/federal-politics/political-news/armani-refugees-peter-dutton-accused-of-undermining-us-deal-with-extraordinarily-irresponsible-critique-20170928-gyqidd.html>

would be able to return his SIM card and memory card (but not the phone) for a price of 200 PGK. He refused to pay this.⁵⁴

CASE: REFUGEE ROBBED AND THREATENED THREE TIMES IN PORT MORESBY

Idris, a Sudanese refugee in Port Moresby, told Amnesty International that he had been threatened, attacked and robbed on three separate occasions.⁵⁵ The first attack happened in October in Port Moresby when he was travelling on a PMV. He said that suddenly everyone on the bus turned on him and attacked him. He was grabbed in a choke hold from behind until he passed out. When he came to, his bag and phone were gone. It was only him and the bus driver on the bus. The bus driver said he didn't know who the people who robbed him were. He didn't report this to the police as he had previously been hassled by the police. The police told him 'you don't have a right to be in Papua New Guinea' and demanded money from him.

On the second occasion Idris was robbed, he was attacked while he was going to the market with a friend to get some ginger for his stomach ache. Four people attacked him – one person grabbed him from behind while the others took his phone and ran. Idris said he was too scared to chase the men.

More recently, as he was walking back to the hotel in Port Moresby, a man threatened him with a gun. He didn't say anything – just pointed the gun at him and then left. Idris said, "Even PNG citizens are not safe. We are victims, just like the locals."

In another case, a Pakistani refugee said that he was smoking outside, and after disposing of his cigarette in a bin, two people in plain clothes approached him, claiming to be police officers. They said that they had seen him littering and demanded 200 PGK if he wanted to go free. He said he only had 20 PGK, so he gave it to them and they let him go. Now he is too scared to go out of the hotel where he is staying and says he is always thinking about his safety.⁵⁶

Another refugee described how he was robbed at the market, "Last time I was in the market, locals put a knife to my throat and said give me your money. They stole my 40 kina (\$12 USD). If we're not a group of at least three we don't go outside."⁵⁷

3.2 INADEQUATE POLICE RESPONSE

"It's not safe. We go with friends or they will catch us. They check many times. They catch, grab me – tell us don't move. But I don't carry any phone outside, no money. We cannot complain to the police as we do not know the people who do this, even the police take their side. My friend complained to the police (after his phone was stolen) and they cannot do anything."

Interview with a refugee in Port Moresby on 3 November 2017.

Refugees said the police failed to take their complaints seriously or adequately investigate them. The most serious attacks on refugees have resulted in little or no repercussions for the perpetrators of violence. In some cases, refugees were extorted for money by the police, or people claiming to be police officers. The

⁵⁴ Interview with Arvio (not his real name), Port Moresby, on 3 November 2017.

⁵⁵ Interview with Idris (not his real name), Port Moresby, on 3 November 2017.

⁵⁶ Interview with Armon (not his real name), Port Moresby, on 3 November 2017.

⁵⁷ Interview with Yazdan (not his real name), Port Moresby, on 3 November 2017.

failure of the police to adequately investigate these cases leads to a climate of impunity, likely to encourage further violence.

Following the attack on the Lombrum centre in 2014, in which Reza Berati was murdered and over 60 other refugees and asylum seekers sustained injuries, only two people were charged and convicted. One of the convicted murderers has escaped custody twice since his trial and remains at large.⁵⁸ In addition, there has been no independent investigation into a shooting incident at the RPC in April 2017, by either the Australian or PNG authorities, where PNG Defence force officials fired shots into the centre and nine people were injured.⁵⁹ It is not clear whether any disciplinary action has been taken against the military officers involved, even though the use of firearms in this manner clearly endangered the right to life.

The PNG police force is chronically under-staffed, poorly-resourced, lacks the equipment and training to carry out forensic investigations, and lacks effective accountability mechanisms.⁶⁰ Reports of arbitrary arrest, ill treatment in custody and bribery are common.⁶¹ These deficiencies place a high burden on victims of crime, who are expected to collect and present all their evidence, including costly medical reports, witness statements and to identify their perpetrators before the police will act.⁶²

The Provincial Police Commander for Manus, David Yapu in Lorengau told Amnesty International he is investigating a number of pending complaints of violence against refugees, and said they were waiting to receive medical reports or statements from refugees to carry out their investigations. He also mentioned investigations into two recent deaths on Manus which he believed were suicides, based on autopsy reports he has received. One of the deaths occurred outside the East Lorengau Transit Centre in August 2017,⁶³ and the other at the Lorengau Hospital in October 2017⁶⁴. Yapu was unwilling to provide Amnesty International with a copy of the autopsy reports he referred to, but said he has referred both these cases to the Coroner for further investigation.

Yapu expressed concern that the withdrawal of translators, caseworkers and other support by the Australian government would make it increasingly difficult for the police to interact with refugees on Manus Island. He was not consulted about these changes related to the closure of the RPC, or the impact it might have on policing.

Yapu gave assurances in a meeting with Amnesty International researchers at the Lorengau Police station on 1 November 2017 that force would not be used to move refugees from the Lombrum centre. However, on 23 and 24 November police and immigration officials – armed with sticks and knives – aggressively removed refugees from the centre, with some refugees sustaining minor injuries.⁶⁵ These actions, especially the threatening and intimidating manner in which the move was carried out, exacerbates the relationship of distrust between police and refugees.

⁵⁸ Paul Farrell, *Man accused of asylum seeker Reza Berati's murder recaptured by police*, The Guardian, 10 April 2017, available at <https://www.theguardian.com/australia-news/2016/apr/10/man-accused-of-asylum-seeker-reza-baratis-recaptured-by-png-police>; and Eric Tiozek, *Reza Berati: Police appeal for help after asylum seeker's killer makes second escape*, Australian Broadcasting Corporation, 27 February 2017, available at <http://www.abc.net.au/news/2017-02-27/reza-barati-murderer-escapes-jail-on-manus-island/8308058>

⁵⁹ Confirmed by the Department of Immigration and Border Protection at Senate Estimates, copy of the recording available at <http://www.smh.com.au/video/video-news/video-national-news/manus-shooting-nine-people-injured-20170522-4u9av.html>

⁶⁰ See for example: Australian Department of Foreign Affairs and Trade, *DFAT Country Information Report*, 10 February 2017, available at <http://dfat.gov.au/about-us/publications/Documents/country-information-report-papua-new-guinea.pdf>; and UN Human Rights Council, *Report of Special Rapporteur on Extrajudicial, summary and arbitrary executions Christof Heyns: Mission to PNG (3-14 March 2014)*, 30 March 2014, A/HRC/29/37/Add.1, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/066/61/PDF/G1506661.pdf?OpenElement>

⁶¹ See for example: Australian Department of Foreign Affairs and Trade, *DFAT Country Information Report*, 10 February 2017, available at <http://dfat.gov.au/about-us/publications/Documents/country-information-report-papua-new-guinea.pdf>; and UN Human Rights Council, *Report of Special Rapporteur on Extrajudicial, summary and arbitrary executions Christof Heyns: Mission to PNG (3-14 March 2014)*, 30 March 2014, A/HRC/29/37/Add.1, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/066/61/PDF/G1506661.pdf?OpenElement>

⁶² See for example, Chapter 5 and 7 on policing and access to justice in *Outlawed and Abused: Criminalizing sex work in PNG*, Amnesty International, May 2016, available at <https://www.amnestyusa.org/reports/outlawed-and-abused-criminalizing-sex-work-in-papua-new-guinea/>; Australian Department of Foreign Affairs and Trade, *DFAT Country Information Report*, 10 February 2017, available at <http://dfat.gov.au/about-us/publications/Documents/country-information-report-papua-new-guinea.pdf>; and UN Human Rights Council, *Report of Special Rapporteur on Extrajudicial, summary and arbitrary executions Christof Heyns: Mission to PNG (3-14 March 2014)*, 30 March 2014, A/HRC/29/37/Add.1, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/066/61/PDF/G1506661.pdf?OpenElement>

⁶³ Michael Koziol, *Asylum seeker on Manus Island found dead*, Sydney Morning Herald, 7 August 2017, available at <http://www.smh.com.au/federal-politics/political-news/refugee-on-manus-island-found-dead-20170807-gxqq20.html>

⁶⁴ Pacific Beat, *Second refugee death in two months at Manus*, Australian Broadcasting Corporation, 2 October 2017, available at <http://www.abc.net.au/news/programs/pacific-beat/2017-10-02/second-refugee-death-in-2-months-at-manus/9008466>

⁶⁵ Photos, showing apparent injuries which refugees say were received during the move were sent to Amnesty International from refugees on 23 and 24 November 2017.

3.3 FAILED SETTLEMENT

The support provided to refugees to settle in PNG so far has been poorly co-ordinated and inadequate. There has been little attempt to address language, social or cultural barriers that would assist with the meaningful integration of refugees.⁶⁶ The services that are available – including health care and assistance to find work – also lack clear lines of responsibility. This creates confusion and adds to the risks and challenges faced by refugees living in PNG.

Two refugees⁶⁷ who were living in the community spoke to Amnesty International of their experiences of settlement. Both asked not to be named because they were fearful of repercussions from PNG Immigration officials. They said they had needed to seek permission from PNG Immigration to leave Manus Island and live elsewhere in the country.

Zubair said he came to Port Moresby in September 2017 for the second time. He first came to Port Moresby over 18 months previously for a job interview, then went back to Manus Island when he did not get the job.

He said that he received support to find employment through JDA Wokman, a contractor engaged to help refugees find work. He said they were unhelpful and JDA Wokman takes a sizeable portion of his salary from any job he finds. When he was offered a job, the PNG authorities interfered with the offer and told the employer to pay him a lower wage that did not reflect his experience and education. As a result, he did not get the job and remains dependent on the living allowance provided to him. Zubair expressed his frustration that the PNG authorities had interfered with the chance for him to be self-sufficient in the country. Now, he cannot find work because PNG Immigration authorities have not renewed his work permit in spite of him repeatedly requesting this.

“They did not bring us here for a job, but slavery. JDA Wokman (a PNG recruitment company) takes 15% of our salary. I found a job... working... in hotel management. I have studied business studies and worked in sales and marketing. He needed a work permit. I asked PNG ICSA for this. They were desperate to get involved. They told (the employer), ‘you must pay him PNG wage’.”

In explaining what a local wage meant, he said, “A bus driver here gets 12,000 PGK a year.” (\$3,738 USD)

Zubair was frustrated by what he saw as interference from the PNG authorities, “I found a good job, and they didn’t want this. I signed every single paper ICSA gave me. I signed one and a half years ago. I got a grey certificate of identity when at the ELTC and a one year work permit. I wanted to get a new one. I still don’t have a new work permit. This was a good opportunity to settle at least one person, and they didn’t want that.”

Zubair now lives with other refugees at Gerahu, a settlement on the outskirts of Port Moresby. When asked if he feels safe there he said, “We hear screaming all night. In daylight and at night they (locals living in that area) drink. It’s like another prison. I hear shots fired at night.” He said that he came home one day after his friend was beaten by locals, who broke his nose. “All over the lounge there was blood. The boys (other refugees) have been complaining (about safety in Gerahu) but they don’t care, ICSA is very slow.”

He also had some health issues which remain unresolved. “I had some pain on my left hand side. I called a local friend to take me to the hospital. I was in severe pain. I was on high pain killers and needed an x-ray which is 300 PGK (\$93 USD). I went to ICSA with the receipt and they emailed Australian Border Force (ABF). This was one and a half months ago. Until now, nothing, no x-ray. I had an injection and pain killers. I am tired. I choose not to go back and ask. We all know who is behind this (the Australian authorities). ICSA are helpless. Two and a half years ago I moved from the RPC to the ELTC. In the first few days, there were only 30 of us and it was very nice. They gave us a good meal to send a message to the others to come out. When more of the Lombrum boys came into town it got worse. Some of the locals are good.”

There are no clear lines of responsibility for supporting refugees living in the community, including on essential health care, which in effect, is denying refugees the health services they need.

Another refugee said that the local owner of his house regularly allows friends and relatives to stay in the house, even though it is rented and paid for by ICSA and designated place for accommodating refugees. He said he was given no warning of local people coming and going in the house and it made him feel unsafe.

⁶⁶ UN High Commissioner for Refugees, *Australia urged to ensure protection, assistance and solutions refugees Manus*, UNHCR, 21 November 2017, available at <http://www.unhcr.org/news/briefing/2017/11/5a1465d14/australia-urged-ensure-protection-assistance-solutions-refugees-manus-island.html>

⁶⁷ Interview with Yusef (not his real name), Port Moresby on 4 November 2017 and interview with Zubair (not his real name), Port Moresby on 5 November 2017.

The Australian government has refused to provide public records regarding its contracts with service providers in PNG for refugees, including contracts with Paladin Solutions (private security contractor), JDA Wokman (recruitment agency), Toll Group (related to construction of new centres), NKW (who provides food to refugees on Manus) and IHMS (who provides medical care to refugees and asylum seekers on Manus and in Port Moresby).⁶⁸ This makes it incredibly challenging to find out more information about the relationship between contractors and how they are managed (or even mismanaged) by the Australian government. However, the overall impression of this system is that it is deliberately designed to create chaos and confusion through neglect and a lack of reliable information.

3.4 LACK OF CLEAR PLANS FOR INTEGRATION

In practice, refugees do not have regular status, pathways to citizenship, access to travel and identity documents, appropriate access to health care or the ability to work long term or obtain safety and protection from the police. While a national refugee policy was adopted in 2015, stating that the PNG government is committed to ensuring refugees have their rights protected, can work without work permits, have proper refugee visas, are not detained, can access citizenship without a fee, this has not been the reality for refugees forcibly sent there by Australia.⁶⁹

The challenges in providing regular status and identity or travel documents are best highlighted by the delays taken to implement such measures for refugees from Papua and West Papua provinces in Indonesia, many of whom have lived in PNG since the 1980s. Papuans are socially accepted because of their Melanesian heritage, but face the same challenges as other locals including poverty and poor housing.⁷⁰ Only in 2014, after living in PNG for more than 30 years, did the PNG government expedite processes and waive the fee for Papuan refugees to access citizenship.⁷¹

By contrast, refugees from other countries can apply for citizenship only after eight years of residency (section 67 of Papua New Guinea's Constitution) and by meeting other requirements to the satisfaction of the Immigration Minister. Under Article 27 and 28 of the Refugee Convention, refugees lawfully in a territory must be provided with identity papers and travel documents that would allow them to leave the country and seek resettlement. Consideration should be given to those who cannot access travel documents from their lawful country of residence. UNHCR has previously raised concerns that refugees have not been given expedited access to identity and travel documents.⁷²

Both refugees living in Port Moresby raised concerns about non-renewal of work permits and lack of travel or identity documents. One sent Amnesty International a copy of his identity document – a letter that was provided by PNG ICSA. This is a one page letter confirming his identity (including a photo of the refugee, his name, date of birth, country of origin and boat ID number), and states that it is for 'travel and identification to open a bank account in PNG'. No travel documents have been provided to refugees to allow them to travel outside of PNG.

The flow on effects from lack of travel and identity documents and freedom of movement are quite serious. It can hinder the ability of refugees to find long term work or become self-sufficient, contrary to the PNG government's stated aims. It can also limit the ability of refugees to access health care, because they cannot leave Manus Island or the country without these documents. Most are not self-sufficient and therefore are forced to rely on medical services provided IHMS or the limited public health facilities that are available (which at best could be described as basic).

⁶⁸ Ben Doherty, *Dutton refuses senate order to release details of refugee services contracts on Manus*, The Guardian, 18 January 2018, available at <https://www.theguardian.com/australia-news/2018/jan/18/dutton-refuses-senate-order-to-release-details-of-refugee-services-contracts-on-manus>

⁶⁹ Rimbink Pato, *National Refugee Policy: Government of PNG*, June 2015, available at <http://www.refworld.org/pdfid/571f2cb44.pdf>

⁷⁰ Amnesty International, *This is breaking people: Human rights violations at Australia's asylum seeker processing centre on Manus Island, Papua New Guinea*, December 2013, available at <https://static.amnesty.org.au/wp-content/uploads/2016/09/Amnesty-International-Manus-Island-report-1.pdf>; and Jenny Munro, *West Papuan Refugees in Papua New Guinea: On the way to citizenship?*, In Brief 2016/19, ANU SSGM, available at <http://dpa.bellschool.anu.edu.au/sites/default/files/publications/attachments/2016-07/ib-2016-19-munro.pdf>

⁷¹ Radio New Zealand, *West Papuan refugees in PNG urged to register*, 7 November 2017, available at <https://www.radionz.co.nz/international/pacific-news/343298/west-papuan-refugees-in-png-urged-to-register>

⁷² See for example, *Submission by UNHCR: For UN OHCHR Compilation Report UPR*, UNHCR, November 2010, available at <http://www.refworld.org/pdfid/571f2cb44.pdf>

In addition, refugees face racism and xenophobia in the community which increases the risks of violence against them and their ability to seek protection from the police,⁷³ making settlement in the country unsafe as well as unfeasible.

In 2016, various stakeholders raised in PNG's Universal Periodic Review at the UN Human Rights Council that PNG has failed to take steps to repeal its reservations to the Refugee Convention (in spite of a commitment to do so), develop and implement a clear refugee settlement policy, improve poor health care standards or address concerns about violence and police accountability – all of which would be essential to provide for the meaningful integration of refugees in PNG.⁷⁴

Papua New Guinea has been unable to protect these rights and provide clear plans for the settlement of refugees after nearly five years of hosting refugees and asylum seekers in its territory, calling into question its ability to protect refugee rights.

⁷³ See for example, *Submission by UNHCR: For UN OHCHR Compilation Report UPR*, UNHCR, November 2010, available at <http://www.refworld.org/pdfid/571f2cb44.pdf>

⁷⁴ Human Rights Council, Working Group on Universal Periodic Review, 25th Session: 2-13 May 2016, 7 March 2018, ref A/HRC/WG.6/25/PNG/3, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/017/50/PDF/G1601750.pdf?OpenElement>

4. NO OTHER OPTIONS

One of the fundamental flaws of the current offshore processing system is that after nearly five years, the Australian government has provided no safe or sustainable options for refugees it forcibly transferred to PNG. Settlement in PNG has not worked. Other options that the Australian claims are on the cards are unfeasible or fail to address immediate concerns regarding the safety and protection of refugees and asylum seekers.

In recent months one refugee, Amir Taghinia from Iran, successfully received protection in Canada⁷⁵ and another refugee, a cartoonist going by the name 'Eaten Fish', received protection in Norway,⁷⁶ underscoring the systematic flaws of Australia's refugee policies. People are now successfully claiming asylum in other countries after years of limbo in Papua New Guinea, because they have been unable to find protection or freedom as a result of Australia's harmful policies. Those who remain in PNG cannot wait another couple of years in this unsafe environment while they have their refugee claims assessed all over again by third countries.

The 'options' the Australian government claims it has provided to refugees and asylum seekers include:

1. They can return to their country of origin;
2. They can go to Nauru, a tiny Pacific Island which is not safe for refugees and asylum seekers;⁷⁷
3. They can apply through a resettlement arrangement with the United States of America (US). However the US has only offered to take a maximum of 1250 of the refugees from Manus or Nauru, meaning that some people will inevitably be left behind. It is not clear what will happen to those not accepted by the US.

In theory, returning home may be a legitimate option for asylum seekers with negative assessments, provided their claims have been assessed through a fair process, or those who choose to return to their country of origin voluntarily. However, Amnesty International has previously raised concerns⁷⁸ about the returns-oriented environment and extreme pressure placed on asylum seekers through their prolonged detention and poor living conditions, which likely undermine the voluntariness of a person's consent to return home and creates a real risk of violating the principle of *non-refoulement*. This international legal principle forbids states from transferring people to a risk of serious human rights violations.

A fair asylum process is also critical to ensuring that people are not returned to a situation where they face a serious risk of human rights violations in breach of the principle of *non-refoulement*. Currently there is no legal provision for judicial review of refugee decisions in PNG, and refugees have not been afforded legal representation to challenge their assessments.⁷⁹

More than 600 people in PNG remain in detention-like centres on Manus Island in spite of being assessed as refugees. Others, while not assessed as refugees, have received an assessment that it is unsafe for them to return to their country of origin because they would be at risk of serious human rights violations. PNG

⁷⁵ Ben Doherty, *Manus refugee who reached Canada last week says deaths are very likely*, The Guardian, 6 November 2017, available at <https://www.theguardian.com/australia-news/2017/nov/06/manus-refugee-who-reached-canada-last-week-says-deaths-are-very-likely>

⁷⁶ ICORN, *Manus Island cartoonist Eaten Fish is ICORN resident in Stavanger, Norway*, 17 December 2017, available at <https://www.icorn.org/article/manus-island-cartoonist-eaten-fish-icorn-resident-stavanger-norway>

⁷⁷ Amnesty International, *Australia: Island of despair: Australia's 'processing' of refugees on Nauru*, 17 October 2016, available at <https://www.amnesty.org/en/documents/asa12/4934/2016/en/>

⁷⁸ Amnesty International, *This is breaking people: Human rights violations at Australia's asylum seeker processing centre on Manus Island, Papua New Guinea*, December 2013, available at https://static.amnesty.org.au/wp-content/uploads/2016/09/Amnesty_International_Manus_Island_report-1.pdf

⁷⁹ Madeline Gleeson, *Offshore Processing Refugee Status Determination of Asylum Seekers on Manus Island*, 30 January 2017, available at <http://www.kaldorcentre.unsw.edu.au/publication/offshore-processing-refugee-status-determination-asylum-seekers-manus-island>

does not currently provide any legal protection or status for those who are not assessed as refugees but cannot return to their country of origin because they face a real risk of serious human rights violations.⁸⁰ Amnesty International has spoken with two people who have received such assessments and was informed by other refugees⁸¹ that there may be around 40 men in a similar position. Of the asylum seekers who have received negative assessments, a number claimed they had not participated in the process or presented evidence to support their claims, in spite of requesting their cases be reviewed and they be given this opportunity.

EXTREME PRESSURE TO RETURN

Rubani, a Somali refugee, told Amnesty International how his friend, also a Somali refugee, was attacked by locals on Manus Island in mid 2017.

The friend was in a critical condition after the attack, which happened while he was living at the ELTC. “He said he was scared to go back to Manus”, Rubani told Amnesty International. He was transferred to Port Moresby for medical treatment.

Rubani said that his friend was told he would have to go back to Manus once his treatment was over.

When he was discharged from hospital, Rubani’s friend was kept in a hotel room in isolation from other refugees.

“He was not allowed to talk to people, and there was a guard on the door who said we can’t go there,” said Rubani, “They refused to let us visit him and he could not come to us.”

Rubani said his friend was sent to Nairobi with two doctors accompanying him on the plane. Rubani said the doctors are now back in PNG.⁸² Rubani said he was worried for his friend’s safety as he had not heard from him since he went to Nairobi.

Amnesty International has concerns about this transfer of a Somali refugee to Nairobi, which may be a breach of the principle of *non-refoulement*.

“Nauru is not an option. We are in prison. They will move us from one prison to another.” Refugee group discussion with refugees, Manus Island, 29 October 2017.

Nauru, like PNG, does not offer any permanent settlement options for refugees and has failed to protect refugee rights. Refugees and asylum seekers – including women and children – have experienced violence and sexual assault on Nauru.⁸³ As Nauru poses similar risks and challenges to the safety of refugees, and only offers temporary settlement, it is not a viable option.

In spite of this, at least two refugees were transferred by the Australian government from PNG to Nauru in November 2017.⁸⁴ One of these refugees, Raheem said, “My wife is on Nauru. I asked many times to go to Nauru. My wife has mental illness, me too, I have medication for sleeping, both wife and me are stressed. I am not interested in going there, but my wife is there, so it is my obligation. They are suffering over there (Nauru) and we are suffering over here. It is the same suffering.”⁸⁵

Of the options provided by the Australian government, only third country settlement offers human rights protection to refugees. In spite of this, the ethics and rationale for this arrangement are somewhat questionable – letting them settle in the US while refusing them settlement in Australia or other safe countries is another dereliction of Australia’s international law obligations. In addition, this process is taking time whilst refugees languish in an unsafe environment in PNG. The easiest, most cost effective and rights-respecting option, deliberately overlooked by the Australian government, is to transfer the refugees and asylum seekers to Australia, and abide by its international legal obligations in this regard.

⁸⁰ See Madeline Gleeson, *Offshore Processing Refugee Status Determination of Asylum Seekers on Manus Island*, 30 January 2017, available at <http://www.kaldorcentre.unsw.edu.au/publication/offshore-processing-refugee-status-determination-asylum-seekers-manus-island> which states that such a process has not been established under the Migration Act or set up in practice; two lawyers (who asked not to be named) also confirmed this to Amnesty International.

⁸¹ Interview with group of refugees at Manus Island, 29 October 2017.

⁸² Interview with Rubani (not his real name), 3 November 2017, Port Moresby.

⁸³ Amnesty International, *Australia: Island of Despair: Australia’s ‘processing’ of refugees on Nauru*, October 2016, available at <https://www.amnesty.org/en/documents/asa12/4934/2016/en/>

⁸⁴ Interview with Raheem, 18 January 2018.

⁸⁵ Interview with Naheem (not his real name) in Port Moresby on 3 November 2017. – I thought he was on Nauru? He is now reunited with his wife on Nauru. Correct?

While the US arrangement offers some hope to refugees, many expressed despair and frustration about the lack of clarity around the process, why some names were put forward and others were not, why people of certain nationalities appear to be excluded from this process, and the lack of clearly communicated timelines.⁸⁶

On 23 January 2018, around 58 refugees were expected to fly to the US from PNG in the second transfer of refugees⁸⁷ and a further 130 from Nauru are expected to leave soon.⁸⁸ This means that around 250 people have been accepted by the US from both PNG and Nauru after more than a year assessing their claims, with around 83 coming from PNG. The US government agreed to settle up to 1,250 people from Manus and Nauru in late 2016, but it is not clear when this process will be completed.⁸⁹ In the meantime, refugees remain in a volatile position on Manus Island facing the ongoing risk of violence and depleted health care services.

The Australian government should bring refugees to immediate safety in Australia while claims to the US are being processed. Even in the best case scenario, this arrangement will not provide settlement for all people sent to Manus and Nauru by the Australian government. There needs to be other options that provide protection and safety for the refugees who are not likely to be accepted by the US.

While the Australian government position of not allowing refugees and asylum seekers to come to Australia is illegal and highly immoral, the Australian and PNG governments cannot allow the ongoing human rights violations against refugees and asylum seekers to continue any longer. The abusive policies inflict further harm day after day and continue to leave refugees and asylum seekers exposed to violence. They must immediately explore all third country settlement options that provide for the safety and protection of refugees, including accepting the offer by the New Zealand government which has offered to take up to 150 refugees a year.⁹⁰ The Australian government must ultimately ensure that no person who originally sought asylum in Australia is left behind on PNG or Nauru.

⁸⁶ Interview with refugees on Manus Island and Port Moresby, various dates.

⁸⁷ Interview with group of refugees, Manus Island, 29 October 2017; Eric Tlozek, *Manus Island: First refugees leave PNG for US swap deal*, 26 September 2017, available at <http://www.abc.net.au/news/2017-09-26/22-refugees-leave-manus-island-for-us-swap-deal/8988424>

⁸⁸ Ben Doherty, *Second group of Manus Island refugees depart for US under resettlement deal*, The Guardian, 23 January 2018, <https://www.theguardian.com/australia-news/2018/jan/23/second-group-of-manus-island-refugees-depart-for-us-under-resettlement-deal>

⁸⁹ Stephanie Anderson, Francis Kenny, Eric Tlozek and Mandie Sami, *Australia announces refugee resettlement deal with US*, ABC, 13 November 2016, available at <http://www.abc.net.au/news/2016-11-13/australia-announces-refugee-resettlement-deal-with-us/8021120>

⁹⁰ PM rejects NZ offer to take refugees, AAP, 5 November 2017, available at <http://www.skynews.com.au/news/top-stories/2017/11/05/pm-under-pressure-to-accept-nz-refugee-deal.html>

5. INTERNATIONAL HUMAN RIGHTS LAW

Refugees and asylum seekers are entitled to protection under the Refugee Convention by Australia, the place where they first claimed asylum. In lieu of providing these protections, the Australian government has forcibly removed them to Papua New Guinea and Nauru, and kept them there for more than four and a half years – in violation of its international law obligations.

While Australia and Papua New Guinea have both ratified the Refugee Convention and have a responsibility to implement it, PNG is not a viable settlement option for refugees.

Papua New Guinea and Nauru were likely proposed as ‘processing’ and ‘resettlement’ options for refugees because of their remoteness, isolation and their relative willingness to cooperate with Australia’s harsh policies towards refugees and asylum seekers in exchange for continued and substantial development assistance rather than for their ability to meaningfully integrate refugees. While PNG must bear some responsibility for the human rights violations committed in its territory or by PNG authorities, Australia remains ultimately responsible because it:

- Forcibly sent refugees seeking asylum in Australia to PNG;
- Continues to bankroll the arrangements. For example, while the Australian government refuses to disclose the details of some contractual arrangements, they have paid Paladin Solutions, a PNG based security company \$72 million AUD (\$57.5 million USD) to provide security on Manus Island over a period of just 4 months.⁹¹;
- Manages the contracts of all private service providers;⁹²
- Provides technical support and advice, including on case management of refugee claims to PNG Immigration officials;
- Determines which countries can accept refugees currently living on Manus and Nauru – effectively blocking an offer from New Zealand to take refugees, but negotiating and facilitating the United States taking up to 1,250 refugees; and
- Can effectively end offshore processing any time it wants, by bringing those people to Australia.

In addition to the rights of refugees and asylum seekers under the Refugee Convention, a number of other human rights are affected by the forcible transfer of refugees to Manus Island. These are elaborated in more detail below.

⁹¹ Ben Doherty, *Dutton refuses senate order to release details of refugee services contracts on Manus*, The Guardian, 18 January 2018, available at <https://www.theguardian.com/australia-news/2018/jan/18/dutton-refuses-senate-order-to-release-details-of-refugee-services-contracts-on-manus>;

⁹² Contracts are now held with several companies, as mentioned in article by Ben Doherty, *Dutton refuses senate order to release details of refugee services contracts on Manus*, The Guardian, 18 January 2018, available at <https://www.theguardian.com/australia-news/2018/jan/18/dutton-refuses-senate-order-to-release-details-of-refugee-services-contracts-on-manus>;

5.1 THE RIGHT TO LIBERTY AND SECURITY OF THE PERSON

The right to liberty and security of the person is protected under Article 9 of the International Covenant on Civil and Political Rights, as is the right to freedom of movement (Art 12). Both Papua New Guinea and Australia have ratified this convention, and both rights are enshrined in PNG's Bill of Rights (section 42 on liberty of the person, and section 52 on freedom of movement).

While some time bound restrictions on liberty and freedom of movement for asylum seekers may be justified, prolonged and indefinite restrictions on liberty – whether it be in open or closed centres – is not justifiable under international human rights law. In all cases, the detaining state must demonstrate why detention can be justified as reasonable, necessary and proportionate in the light of the circumstances and this must be reassessed as it extends in time.⁹³ Refugees and asylum seekers have now been held in Papua New Guinea for more than four and a half years, with no clear plans to end their confinement on Manus Island.

As confirmed in the UN Human Rights Committee General Comment 27, any restriction on freedom of movement must be provided by law, necessary to protect national security, public order, public health or morals, or the rights and freedoms of others, and must be consistent with other rights recognized in the Covenant. Moreover, any restriction cannot “nullify the principle of liberty of movement.”⁹⁴

Refugees and asylum seekers remain in a highly securitised environment, have substantial restrictions on their liberty and freedom of movement and are effectively confined to Manus Island. The factors which contribute to the ongoing restrictions on the liberty of refugees and asylum seekers include:

- While refugees can travel to Lorengau during the day, they are warned by private security contractors that they do so ‘at their own risk’ and no protection or security is provided by local authorities to mitigate this risk. As a result, movement in and around town is effectively curtailed by the security risks, and a failure of the police to take complaints by refugees seriously or adequately investigate them.
- Refugees must live at designated facilities as determined by the PNG Immigration Minister and seek permission to reside elsewhere.
- Refugees and asylum seekers live in a heavily securitised environment where their movements are monitored. Amnesty International witnessed a heavy private security presence at each of the sites for the three new centres. The centres are not open in the sense that anyone can come and go as they please – access remains restricted even for human rights and humanitarian organisations.
- Refugees are not allowed to leave Manus Island without permission from Immigration officials. Iranian journalist and refugee Behrouz Boochani told Amnesty International that he was stopped from boarding a flight on Manus Island when he was called to give evidence in court proceedings in Port Moresby.⁹⁵ In addition, refugees and asylum seekers requiring medical treatment off the island must go through an ‘ambiguous and deficient’ approvals process which involves decisions being made by Australian government officials on whether or not they can seek treatment in Port Moresby or Australia.⁹⁶
- Refugees have not consistently been given identity or travel documents that allow them to move freely around the country or travel outside the country. Those who have an identity document (which was shown to Amnesty International) – a letter confirming identity from ICSA – said it was disregarded by the authorities as proof of identity and was only helpful to set up a bank account.

As a result of these factors, refugees and asylum seekers remain in a highly restricted environment that limits their liberty and restricts freedom of movement. Refugees and asylum seekers cannot leave Manus Island to seek employment, medical treatment or educational opportunities without permission from the PNG authorities.

⁹³ See Human Rights Committee, General Comment No. 35: Liberty and security of the person (Art 9), para. 18., available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fGC%2f35&Lang=en

⁹⁴ See, Human Rights Committee, General Comment No. 27: Freedom of movement (Art.12): 2 November 1999, UN Doc.CCPR/C/21/Rev.1/Add.9, paragraphs 2, 8, 11, 13, 14.

⁹⁵ Interview with Adeem (not his real name), Manus Island, 28 October 2017.

⁹⁶ Stefan Armbruster, *Khazaei Inquest: Hamid's death linked to deficient emergency evacuation policy*, SBS, 15 February 2017, available at: <http://www.sbs.com.au/news/article/2017/02/15/khazaei-inquest-hamids-death-linked-deficient-emergency-evacuation-policy>

OPEN AND SEMI-OPEN CENTRES, DIRECTED RESIDENCE

Where states use measures such as open and semi-open centres, directed residence and restrictions to a specified district as an alternative to detention, they must ensure that the restriction of individuals' right to liberty and freedom of movement conforms with relevant principles of international law, including the principles of necessity and proportionality.

States must ensure that the use of such measures, whether with or without additional reporting requirements, does not prevent individuals from exercising their other human rights, including the rights to health and education.

Once asylum seekers are recognised as refugees, it is not justifiable for states to impose any form of alternative non-custodial measures, as is being applied to all refugees in Papua New Guinea.⁹⁷

A study of semi-open Danish departure centres for rejected asylum seekers – which like Manus, feature a heavy security presence, severely circumscribed living arrangements and an absence of activities - found that this style of detention ‘operates through abandonment and indifference as much as coercion’. The intent of this form of detention is nonetheless to ‘encourage’ people to return to their country of origin.⁹⁸

The restrictions on the liberty of refugees and asylum seekers on Manus amount to an unreasonable and disproportionate restriction on freedom of movement.

5.2 RIGHT TO HIGHEST ATTAINABLE STANDARD OF PHYSICAL AND MENTAL HEALTH

“Papua New Guinea continues to face enormous challenges in providing access to quality health services and education opportunities for all Papua New Guineans.”

Australian Government, Aid Investment Plan: Papua New Guinea 2015-16 to 2017-18, at p6.

Both Australia and PNG have ratified the International Covenant on Economic, Social and Cultural Rights, which requires them to respect and protect the right to the enjoyment of the highest attainable standard of physical and mental health for everyone (Art 12).

Where refugee and asylum seeker centres are located in places that are geographically and socially isolated, people may be unable to access health services, education, or legal assistance. States must ensure that the use of such centres, directed residence or other restrictions does not obstruct individuals from enjoying their rights, including to health.⁹⁹

The Australian government has implemented policies which make it difficult for refugees and asylum seekers to access health care, including by sending them to countries (PNG and Nauru) with poor medical facilities, that are geographically isolated, and restricting their freedom of movement. These policies in combination deny refugees and asylum seekers their right to health. The Australian government has an obligation to ensure the health care needs – both physical and mental – of refugees and asylum seekers are met to the highest attainable standard.

The deliberate obstruction of medical care or other humanitarian assistance to refugees and asylum seekers as occurred between 31 October and 24 November 2017, may also amount to torture or other cruel, inhuman or degrading treatment.

⁹⁷ Amnesty International, *Irregular migrants and asylum seekers: Alternatives to Detention*, 2009, POL33/001/2009, at p6.

⁹⁸ Annika Lindberg, *The 'Mysterious' configuration of open immigration and removal centres: A new politics of abandonment?*, The University of Oxford, School of Law, 22 May 2017, available at <https://www.law.ox.ac.uk/research-subject-groups/centre-criminology/centreborder-criminologies/blog/2017/05/mysterious>

⁹⁹ Amnesty International, *Irregular migrants and asylum seekers: Alternatives to Detention*, 2009, POL33/001/2009

6. CONCLUSION AND RECOMMENDATIONS

For the past four and a half years, more than 800 refugees and asylum-seekers have been immured in Australian-run detention centres on Manus Island. During that time, their rights have been stripped away and they have been denied dignity. Australia has used a calculated system of cruelty, indifference and isolation as a means of coercing refugees and asylum seekers to return home.

They have endured violence at the hands of the local community and the authorities. Australia's refugee policies more closely resemble punishment not protection, running counter to a key objective of the Refugee Convention. The transfer of refugees from the RPC to other newer centres, has prolonged their effective detention and exacerbated their isolation because of the legitimate fears of attacks from the local community.

Papua New Guinea does not provide a safe or sustainable solution for the men. The police and authorities have failed to protect refugees from violence. Even if permanent settlement options were offered and refugees could find a way to be self-sustaining in PNG, local hostility would continue to make it unsafe for refugees.

The only option left for Australia is to end its harmful offshore processing policies and bring those who sought asylum in its territory back there, or allow and facilitate them to settle in other safe countries.

Amnesty International makes the following recommendations:

TO THE AUSTRALIAN GOVERNMENT

- Immediately end offshore processing, and bring all refugees and asylum seekers it transferred to PNG to Australia, or a safe third country.

As interim measures until all refugees and asylum seekers are transferred from PNG to a safe country:

- Immediately end immigration detention practices (including open forms of detention) and other discriminatory limitations on the rights of asylum seekers and refugees.
- Ensure adequate and appropriate security for refugees at all centres.
- Ensure the right to the highest attainable standard of medical care to all refugees and asylum seekers, including access to appropriate mental health care through psychiatrists, psychologists and torture and trauma counsellors.

TO THE PAPUA NEW GUINEAN GOVERNMENT

- Ensure that refugees' and asylum seekers' right to freedom of expression and the right to peaceful assembly is respected in practice. No refugee or asylum seeker should be arrested or detained solely for peacefully exercising their rights to freedom of expression and the PNG authorities should refrain from targeting, threatening or intimidating the men it perceives to be 'ringleaders' of protests.
- Independently, promptly, effectively and impartially investigate all complaints of violence or other crimes committed against refugees and asylum seekers, and where evidence indicates, ensure that perpetrators are held accountable through a court of law, without recourse to the death penalty.

- Independently, promptly and effectively investigate unlawful use of force by the police and immigration officials on 23 and 24 November in transferring refugees from the Lombrum RPC.
- Ensure that refugees are afforded meaningful work opportunities in the country for fair wages, and that work permits are renewed promptly and effectively. In practice, PNG ICSA and other authorities should not interfere with or obstruct any valid offer of employment or dictate the terms and salary they should be paid.
- Ensure that all refugees are promptly provided with travel and identity documents and allowed to travel freely within and leave Papua New Guinea, should they wish to do so.

RECOMMENDATIONS TO BOTH GOVERNMENTS

- Ensure free and full access for independent agencies such as the UN, national and international governmental organisations, nongovernmental organisations and humanitarian organisations, and permit them to monitor conditions inside all of the centres and provide humanitarian assistance where necessary.
- Ensure that asylum seekers who have received negative refugee assessments are able to seek judicial review of their assessments, including through the assistance, free of charge, of an interpreter and by legal counsel during the proceedings.
- Ensure that all the refugees on Manus Island are given the opportunity to apply for resettlement programs without discrimination, including with the United States of America or with other countries.
- Ensure that the principle of *non-refoulement* is respected in practice and that no individual is forced to return to a country where he is at risk of persecution or other ill-treatment.
- Accept and co-operate fully with third countries willing to provide safe settlement of refugees in an expedited manner, including but not limited to, the government of New Zealand.

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PUNISHMENT NOT PROTECTION

AUSTRALIA'S TREATMENT OF REFUGEES AND ASYLUM SEEKERS IN PAPUA NEW GUINEA

For the past four and a half years, more than 800 refugees and asylum-seekers have been immured in Australian-run detention centres on Manus Island. During that time, refugees have been robbed and violently attacked, sometimes by the PNG authorities. The most serious attacks on refugees have resulted in little or no accountability for the perpetrators of such violence, creating a climate of impunity.

The transfer of refugees from the RPC to other newer centres in November 2017, was itself an orchestrated act that was deeply humiliating to refugees and asylum seekers, has prolonged their state of limbo, and exacerbated their isolation because of the legitimate fears of attacks from the local community.

The PNG government has repeatedly failed over nearly five years to implement any meaningful measures to integrate refugees, ensure they are self-sufficient, provide them with travel or identity documents or provide for their freedom of movement. Even if they were willing to address these issues, the PNG authorities have been unable to protect refugees from the violence they face in the community.

Australia has used a deliberate system of indifference and cruelty to increase the hardship suffered by refugees and asylum seekers and remains responsible for their fate and well-being. It cannot shirk its responsibility, shifting them from one detention centre to several others, in a cynical attempt to conceal the illegality of its practices. Nor can it offload that responsibility onto PNG. The only option left for Australia is to end its harmful offshore processing policies and bring those who sought asylum in its territory back there, or allow and facilitate them to settle in other safe countries.