UNTIL WHEN?

THE FORGOTTEN MEN ON MANUS ISLAND

Refugee Council of Australia

AMNESTY INTERNATIONAL

Until when will we say RIP and forget it.

Until when will we condemn and forget it.

Until when will we express ourselves in words with sadness and forget it.

Until when?

Until when?

Until when?

Is there any one to get us out before it's too late?

#ANOTHER_BLACK_DAY

#MANUS

#NAURU

Samad Abdul for Writing through Fences website, 2018

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Cover photo: An old jetty in the town of Lorengau on Manus Island, Papua New Guinea, October 2017. © AI

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RECOMMENDATIONS

The Refugee Council of Australia and Amnesty International make the following recommendations in respect of the refugees and people seeking asylum sent by Australia to PNG:

TO THE AUSTRALIAN GOVERNMENT

End offshore processing immediately, and bring them to Australia, or a safe third country.

While this is being implemented:

- Ensure the right to the highest attainable standard of health, including access to adequate mental health care, and where medical treatment is required in Australia, access to timely transfers based on medical needs.
- End immigration detention practices (including open forms of detention) and other discriminatory limitations on their rights.
- Ensure adequate and appropriate security for those living at all centres.

TO THE PAPUA NEW GUINEAN GOVERNMENT

Independently, promptly, effectively and impartially:

- Investigate unlawful use of force by the police and immigration officials on 23 and 24 November in transferring refugees from the Lombrum RPC.
- Investigate all complaints of violence or other crimes committed against refugees and people seeking asylum and, where there is sufficient evidence, ensure that perpetrators are held accountable through a court of law, without recourse to the death penalty.

Ensure that all refugees:

- Have meaningful work opportunities 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.
- 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.

Respect in practice their human right to freedom of expression and the right to peaceful assembly, by not arresting or detaining people or targeting, threatening or intimidating people peacefully exercising their rights to freedom of expression.

RECOMMENDATIONS TO BOTH GOVERNMENTS

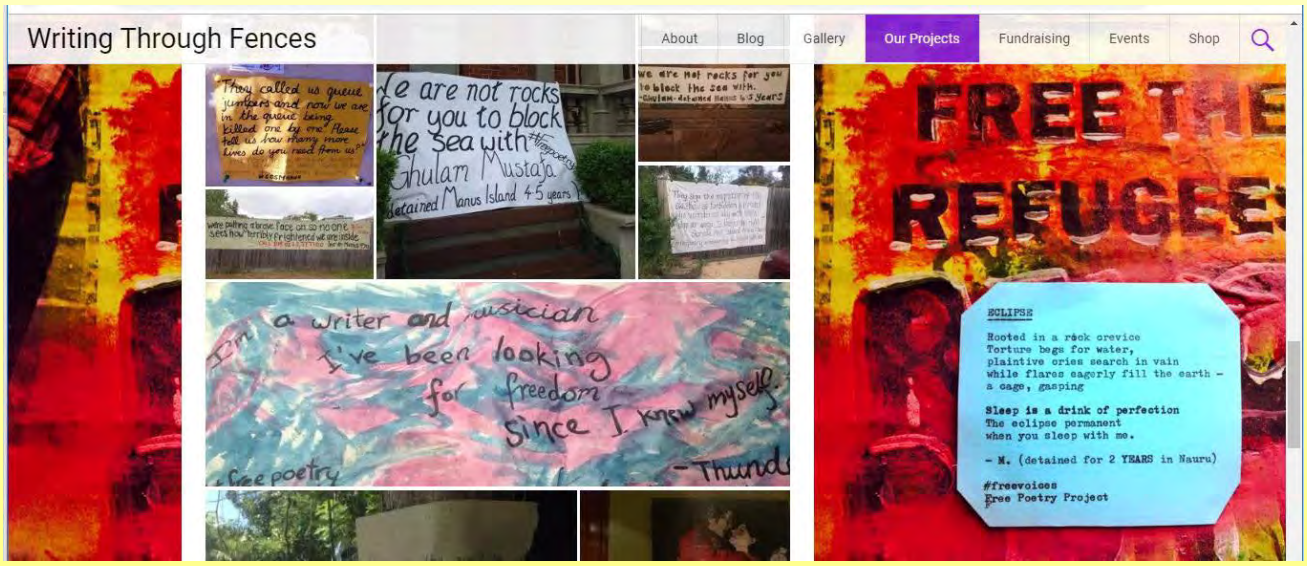
Ensure that the principle of non-refoulement is respected in practice and that no individual is forced to return to a country where he is at risk of persecution or other ill-treatment.

Accept and co-operate fully with third countries willing to provide safe settlement of refugees rapidly, including but not limited to, the government of New Zealand.

Ensure that those who have received negative refugee assessments can seek judicial review of their assessments, with an interpreter, free of charge, and legal representation.

Ensure that independent agencies, including the United Nations, international and national authorities and non-governmental organisations, have full and free access to the centres to monitor the conditions and provide humanitarian assistance where necessary.

Photo: Screenshot of the website ***Writing through Fences**, 2018*



EXECUTIVE SUMMARY

> *The system the Australian government has designed for refugees and asylum seekers, has a kind of evil and devastating effect. It can ruin the very inner strength of human spirit. To the outsider, Fariborz [Karami] took his own life [on Nauru in June 2018], but the truth is the system took his life. There is no alternative explanation, and we must hold the Australian government accountable for this action.*
>
> *…. It feels like it is Australia's ultimate goal to put every vulnerable refugee and asylum seeker into an inescapable corner…We have now lost seven lives from the hell of Manus and five from Nauru. All were full of life. I don't know how many more lives they want in the name of this policy.*
>
> *- Imran Mohammad, a Rohingya refugee once in PNG, now living in Chicago, 20 June 2018*[1]

One year ago, the Regional Processing Centre (RPC) at Lombrum Naval Base (located on Manus Island, Papua New Guinea), where refugees and people seeking asylum were being detained, was closed. The centre housed hundreds of men – refugees and people seeking asylum – that Australia had been sending there since July 2013. Some in the centre refused to leave. Some feared for their safety in the local community. They also feared what would happen to them once the centre had closed, and the Australian Government washed their hands of them.

Those men were forced out brutally, first by the withdrawal of services, then by the withdrawal of food, water and other necessities, and finally by force. They were sent to live in three 'transit centres' on Manus Island, two of which did not meet basic standards, all of which feel and operate like detention in another guise.

Their fear that they would be forgotten is being realised. No longer technically in 'detention', their plight has dropped off the radar. They are less visible, more dispersed, and have been cast into a different kind of limbo. The only real prospect of getting out for many has been the United States (US) resettlement deal, but this has become an increasingly faint hope with a high rate of rejections of some nationalities, and an extremely slow pace of application processing. The pace of people being forcibly returned home is also accelerating.

Prolonged and indefinite detention, combined with bleak future prospects, is breaking many of these men. Since August 2017, three men have killed themselves. Many more have tried. In recent months, one man tried to hang himself, another tried to set himself on fire, and a third swallowed razor blades and nail clippers. Yet the Australian Government has cut mental health support in half and ended torture and trauma counselling that was previously a lifeline to many.

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[1] *Writing Through Fences* <http://writingthroughfences.org/>.

Other refugees and people seeking asylum are in severe, prolonged and unnecessary pain, as they try to deal with their increasingly complex and chronic medical conditions with reduced support. After the closure of the RPC, there has been a significant reduction in availability of health care. The current health clinic on Manus Island is much smaller and harder to access, meaning many people have to rely on an overstretched and under-resourced local hospital.

Now, refugees often have to pay for their own medications, medical reports and health care after hours. They must do so out of their meagre allowances or by relying on the generosity of ordinary Australians who have fundraised for them and organised money transfers. It is increasingly impossible for refugees and people seeking asylum in Papua New Guinea (PNG) to be transferred to Australia for medical care, even when they have physical or mental health conditions that cannot be treated in PNG.

In spite of the cloak of secrecy that surrounds offshore processing, the men on Manus have been bravely speaking up for themselves. They have written books, made films, drawn cartoons, and taken photographs, highlighting their daily abuse. They have asked us, again and again, to treat them as humans, to understand what is happening to them, to understand why it is wrong, and to speak up for them in ways that they cannot.

At a time when the tide finally seems to be turning on the brutal and illegal policy of offshore processing, we must make sure that these men, both the brave and the broken, are not forgotten. We can never give them back what they have lost, but we can and must give them a way to get out of the hole that we have put them in.

THE FORGOTTEN MEN

Under Australia's unique system of 'offshore processing', people seeking asylum in Australia by boat are sent to Nauru or Manus Island in PNG for their refugee claims to be determined. The policy was resumed in September 2012 under a Labor government, but on 19 July 2013, the Australian Government made the policy more restrictive, so that those sent to Nauru or PNG were never to be settled in Australia, but instead to third countries that had yet to be identified. This policy has been continued by a Coalition government for the past five years.

"

I am a reality
You recognise me from my words
You never see myself and meet me
I am a reality
I'm a real experience of pain
We are all a reality
Each of us different
Even us in here

*Kaveh for **Writing through Fences** website*
Manus Island, 2018

Since 19 July 2013, 1,523 men have been sent to Manus Island under this policy.[2] More than five years later, as of 22 October 2018, 626 are still in PNG.[3] As we explore in the next section of the report, the RPC where the men were housed was closed during October and November 2017. This report focuses on what has happened to these men since then.

Why Australia remains responsible for these men

Refugees and people seeking asylum are entitled to protection under the Refugee Convention by Australia, the place where they first claimed asylum. Instead 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 under the Refugee Convention and international human rights law.

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. While PNG bears responsibility for human rights violations committed in its territory or by PNG authorities, Australia also remains responsible because it sent these people there, it continues to fund and manage the contracts with service providers and provide technical support and advice, it determines which countries can accept refugees currently living on Manus and Nauru, and it can end offshore processing any time it wanted to by bringing those people to Australia.

Since offshore processing began, all governments involved have gone to extreme lengths to suppress the flow of information from Nauru and Manus Island. Australians find it very difficult to find out what is happening in their name. There are claims of public interest immunity,[4] secrecy laws[5],

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[2] Senator Kim Carr, Answer to Question on Notice AE17/170 (27 February 2017) <https://www.aph.gov.au/~/media/Committees/legcon_ctte/estimates/add_1617/DIBP/QoNs/AE17-170.pdf>.

[3] Estimates Hearing of Home Affairs Portfolio (22 October 2018) <https://parlinfo.aph.gov.au/parlInfo/download/committees/estimate/c9057e7c-a164-4ec6-b736-50bf92e1d970/toc_pdf/Legal%20and%20Constitutional%20Affairs%20Legislation%20Committee_2018_10_22_6688.pdf;fileType=application%2Fpdf#search=%22committees/estimate/c9057e7c-a164-4ec6-b736-50bf92e1d970/0000%22>, 99.

[4] See, eg, Senate Standing Committees on Legal and Constitutional Affairs, *A Claim of Public Interest Immunity Raised over Documents* (6 March 2014) <https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/Public_Interest_Immunity>.

[5] *Australian Border Force Act 2015* (Cth, *2015*) <http://www.legislation.gov.au/Details/C2016C00650>. This was amended following a legal challenge to the High Court: Bianca Hall, ''A huge win for doctors': Turnbull government backs down on gag laws for doctors on Nauru and Manus' *The Sydney Morning Herald* (20 October 2016) <https://www.smh.com.au/politics/federal/a-huge-win-for-doctors-turnbull-government-backs-down-on-gag-laws-for-doctors-on-nauru-and-manus-20161020-gs6ecs.html>.

decreasing publication of information,[6] and confidentiality clauses in contracts.[7] Much media attention has been focused on women and children in Nauru. However, there are no women or children in PNG. which has made it easier to ignore the plight of these men. When the Australian Government was confronted with the prospect of a court hearing in a class action claiming compensation for those detained in Manus Island, it chose instead to settle the case for a record $70 million.[8]

OUR SOURCES

This report gathers what we do know from past inquiries and reports, media reports, and from information obtained through parliamentary proceedings, as referenced in this report (and, as conditions change quickly, providing the date of the information). Wherever possible, we have relied on credible media reports, which are consistent or verified by those we trust. Another trusted source contributed other information for this report, including from local residents of Manus Island.

Much of the report comes from the men living in PNG themselves. The Refugee Council of Australia (RCOA) spoke to several men in telephone interviews during October 2018. The information from those interviews that is included in this report has been independently confirmed by at least two sources, unless otherwise indicated. For reasons of privacy and security the sources have not been identified, except with their consent.

Some of the men we spoke to dedicated hours to tell us about what was happening to them and their friends, and some shared personal and difficult stories. Some made sure we knew of those who were more vulnerable or isolated, and who could not speak to us. This is their story to tell, and we are indebted to them for trusting us with that story.

In a climate of secrecy, much of what we know today about the situation of people on Manus Island and Port Moresby is mainly thanks to men like these. These are men who, despite all that they have gone through, continue to speak up. They speak up for the most vulnerable. They tell us about their lives and their fears, and what is really happening to them. They do so tirelessly, often selflessly, and certainly at great personal cost.

They have not only spoken up through the media, but have taken control of their own stories through

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[6] For example, since August 2015 there is no longer information about the countries people are returned to and updates on the determination of refugee claims stopped in October 2017: see Australian Border Force, *Operation Sovereign Borders Monthly Update: November 2017* (19 December 2017) <https://newsroom.abf.gov.au/releases/operation-sovereign-borders-monthly-update-november-2017>.

[7] Donna Sherwani, Jordina Rust, Laura Dreyfus, Lexi Lachal, and Tal Shmerling, *Operation Secret Borders: What We Don't Know Can Hurt Us* (Liberty Victoria, April 2016) <https://libertyvictoria.org.au/sites/default/files/LV-YLLR-Whistleblowers-ReportFINAL-COPY-April16.pdf>, 25.

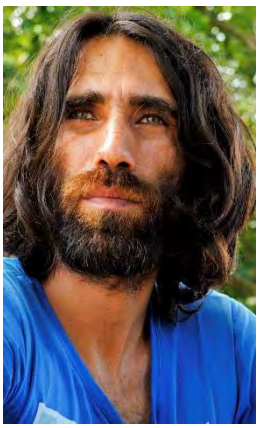
[8] Ben Doherty, 'Manus Island: judge approves $70m compensation for detainees' *The Guardian* (6 September 2017) <http://www.theguardian.com/australia-news/2017/sep/06/judge-approves-70m-compensation-for-manus-island-detainees>.

film, photography, cartoons and their own writings. We have reproduced some of those writings in this report and online, and thank those involved, especially Janet Galbraith, the coordinator of the website *Writing through Fences*. These are the men who refuse to be silenced, and who should not be forgotten.

Benham Satah: Despite his extraordinary ordeal (as detailed later in this report), he has been a regular spokesperson, advocate and an interpreter for many from the very beginning.

Shamindan Kanapadhi: He speaks regularly about issues in Manus Island, including lack of medical care and mental health support. Shamindan also provided regular updates to media about the treatment of people who remained at the regional processing centre when it closed.

Kazem, Kaveh, Rahman and Farhad: Among others, these men have written poems and stories in ***Writing through Fences*****,** a website that showcases the works of those who are in or who have spent time in detention.



Behrouz Boochani: A Kurdish-Iranian journalist, he has published an award-winning book, *No Friend but the Mountains: Writing from Manus Prison*, has filmed and co-directed a movie, *Chauka, Please Tell us the Time* using mobile phone images. He has also written extensively for various leading news organisations, collaborated with a playwright Nazanin Sahamizadeh on a play called *Manus* and participated in many forums and conferences remotely from Manus Island, including at the United Nations Human Rights Council in Geneva.[9] He has won multiple awards including Anna Politkovskaya 2018 investigative journalism award[10] and Amnesty International Australia's 2017 media award.[11]

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[9] Behrouz Boochani, *Testimony from Behrouz Bouchani from Manus Island* <https://www.youtube.com/watch?v=pTsUGvGZ4_w>.

[10] Naaman Zhou, 'Behrouz Boochani wins Anna Politkovskaya award for Manus Island writing' *The Guardian* (5 October 2018) <https://www.theguardian.com/australia-news/2018/oct/05/behrouz-boochani-wins-anna-politkovskaya-award-for-manus-island-writing>.

[11] 'Winners of the 2017 Amnesty International Australia Media Awards announced' *Amnesty International Australia* (1 November 2017) <https://www.amnesty.org.au/winners-2017-amnesty-international-australia-media-awards-announced/>.

Abdul Aziz Muhamat: He has been reporting from Manus Island since March 2016 via short WhatsApp messages, which have formed the basis of a Walkley Award-winning podcast series,[12] *the Messenger*.[13] He has also contributed significantly through media, forums and conferences, and is one of three nominees for an international human rights award.[14]

Kaaveh Maleknia: He had his first photo exhibition in Perth in June 2018, *Beautifully Suffered*, showcasing landscape photos of Manus Island, while he remained on Manus Island.

Amir Taghinia: The only man from Manus to have resettled in Canada, he recently participated in SBS's new season of *Go Back to Where You Came From*.

Imran Mohammad: Recently resettled in the US, he has reported on the living conditions on the Island[15] and won Amnesty International Australia's blogging competition.

Imran, Amir and Abdul Aziz Muhamat also participated in SBS's virtual reality project, *Inside Manus*.[16]

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[12] The Walkley Foundation, *Radio/Audio: Feature 2017* <http://www.walkleys.com/radio-audio-feature-2017/>.

[13] Abdul Aziz Muhamat and Michael Green, *The Messenger* <https://www.wheelercentre.com/broadcasts/podcasts/the-messenger>.

[14] 'Manus detainee up for human rights award' *SBS News* (26 October 2018) <https://www.sbs.com.au/news/manus-detainee-up-for-human-rights-award>.

[15] Imran Mohammad, *A Cry of a Voice in Isolation* (June 2016) <https://www.ruralaustraliansforrefugees.org.au/wp-content/uploads/2016/06/160630-Imran-on-Manus.pdf>.

[16] 'VR film takes you inside the devastating reality of life on Manus Island' *SBS News* <https://www.sbs.com.au/topics/life/culture/article/2017/08/15/vr-film-takes-you-inside-devastating-reality-life-manus-island>.

THE CLOSURE

The original offshore processing arrangement, in which the men were detained in a 'Regional Processing Centre' (RPC) on Manus Island, was found to be unconstitutional by the PNG Supreme Court on 26 April 2016. The court ordered that their detention end,[17] and the next day the centre was declared 'open', with the men able to leave the centre and go to Lorengau town during the day.

On the ground, however, nothing really changed. The men were not able to live anywhere else or leave Manus Island without permission. As the United Nations High Commissioner for Refugees (UNHCR) stated in 2016, the number of security guards, presence of fences, and continued use of communal tents made the arrangement indistinguishable from the previous one.[18]

FORCING THEM OUT

In April 2017, the Australian Government announced that the centre would close by the end of October. Most of the men wanted to stay at the centre, and held peaceful protests asking for their safety and freedom. Their requests were met with a relentless and brutal campaign to force them to leave.

Facilities and services were gradually removed in the months leading up to the closure, and medications, food and water were restricted so they would be forced to leave. On 31 October 2017, most of the Australian service providers left. The next day, water and power supplies were cut off.[19]

Around 600 men stayed. Over the next weeks, tensions escalated. Those left in the centre were forced to store water in garbage bins. Locals were prevented by PNG security forces from delivering food to the men.[20] One man who collapsed with chest pain reportedly waited four and a half hours before he was taken to a local hospital, where the only ECG machine was broken. PNG officials entered the compound, destroying sun-shelters, smashing the taps on water tanks, and filling in

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[17] Elibritt Karlsen, *Australia's Offshore Processing of Asylum Seekers in Nauru and PNG: A Quick Guide to the Statistics* (Research Paper, 19 December 2016) <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22library%2Fprspub%2F4129606%22>.

[18] United Nations High Commissioner for Refugees, *Inquiry on the Serious Allegations of Abuse, Neglect and Self-Harm on Nauru and Manus Island* (Submission, November 2016) <https://www.aph.gov.au/DocumentStore.ashx?id=125eb4f5-9a67-4313-8b19-c6664a24398d&subId=460245>, 8.

[19] Amnesty International, *Punishment Not Protection - Australia's Treatment of Refugees and Asylum Seekers in Papua New Guinea* (ASA 34/7781/2018, February 2018) <https://www.amnesty.org/en/documents/document/?indexNumber=ASA34%2f7781%2f2018&language=en>.

[20] Amnesty International, *Punishment Not Protection - Australia's Treatment of Refugees and Asylum Seekers in Papua New Guinea* (ASA 34/7781/2018, February 2018) <https://www.amnesty.org/en/documents/document/?indexNumber=ASA34%2f7781%2f2018&language=en>.

water wells.[21]

We learned of what was happening through the bravery of some of the men in the compound, including Abdul Aziz's podcasts of the events over those days.[22] Human rights organisations and international bodies, including UNHCR, called for an urgent end to the humanitarian emergency.[23] Those calls were not heeded.

Between 23 and 24 November, the PNG police, paramilitary and immigration officials removed those left in the centre by force, threats and intimidation.

People were threatened and beaten with metal batons and rocks were thrown at them. The refugees and people seeking asylum RCOA spoke to in October 2018 highlighted the trauma of being attacked once again, humiliated, and transferred from one detention centre to essentially another one. Many lost the little they had, as they did not have a chance to pack.

> *In that tough situation where I was separated from my happiness and my dreams, finally I found a best friend in my diary. My diary was my only friend with who I could share my pain. I was always writing my pain, suffering and struggle and it gave to me some lovely time as I kept myself busy in a place where there wasn't any activity to do. […]*
>
> *The day when we were attacked and removed by force to another prison camp, they entered my room and abused me both physically and verbally and destroyed my everything. My diary, my books, my clothes have been destroyed. I couldn't protect my diary. The moment is such a painful moment. It is the worst moment when everything is going wrong but you are not able to protect or fight back for your rights. I cried and begged them please not to destroy my diary but their only response was to abuse us […]*
>
> *— part of the writing by Samad Abdul, PNG, 2017*[24]

Table 2 in the appendix sets out the events in October and November 2017 in more detail.

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[21] Ben Doherty, ''The situation is critical': cholera fears on Manus as water and medicine run out' *The Guardian* (20 November 2017) <https://www.theguardian.com/australia-news/2017/nov/20/the-situation-is-critical-cholera-fears-on-manus-as-water-and-medicine-run-out>.

[22] Abdul Aziz Muhamat and Michael Green, *The Messenger* <https://www.wheelercentre.com/broadcasts/podcasts/the-messenger>.

[23] See, for example, 'UNHCR urges Australia to stop unfolding humanitarian emergency' *United Nations High Commissioner for Refugees* <http://www.unhcr.org/en-au/news/press/2017/11/59e6b5c77/unhcr-urges-australia-to-stop-unfolding-humanitarian-emergency.html>; 'UNHCR urges humane approach on Manus Island' *United Nations High Commissioner for Refugees* <http://www.unhcr.org/en-au/news/press/2017/11/5a0545da7/unhcr-urges-humane-approach-on-manus-island.html>.

[24] *Writing Through Fences* <http://writingthroughfences.org/>.

WHY DID THEY WANT TO STAY?

The men wanted to stay for different reasons, including fears for their safety outside the centre, uncertainty about what lay ahead, and fears of being abandoned by the Australian Government.

They feared for their safety because events over the past few years had proven again and again that they were not safe, and would not be protected by the PNG government. The infamous attack on the centre by locals and contractors in February 2014 led to the murder of Reza Barati, an Iranian man who was seeking asylum, and the injury of many others. In April 2017, the PNG Defence Force fired shots at random into the centre. Although nine people were injured, so far there has been no independent investigation of the incident.[25]

They feared for their safety in the local community, as the new centres were much closer to Lorengau, the main town on Manus Island. The local Manusian people had not been consulted before the RPC had been constructed. They were never offered an opportunity to understand or engage constructively with refugees and people seeking asylum. As a result, both refugees and local residents believed in stereotypes about each other. As one local put it, "the access to know the refugees, to know them in a humanitarian way, is not there."

The presence of the refugees and people seeking asylum has also led to increased pressure on the facilities on Manus Island, such as the hospital. There is also resentment because locals believe much of the profit from offshore processing is not flowing to their community, but to the well-connected:

> *... a good number of Manusians know the centres in Lorengau only benefit a few and who are they, maybe people in higher circles.*
>
> *— A local Manus Island resident, May 2018*

Local residents understandably also resented the way they had been treated by the Australian Government and the resulting bad press:

> *They [Australia] did not respect the sovereignty of PNG and operating here on Manus under the veil of secrecy. The Manusians are getting the brunt of everything. Everyone comes to dump our friends here and forget about them and they think we, Manusians, can come with a magic wand and solve everything.*
>
> *— A local Manus Island resident, May 2018*

[25] Amnesty International, *In the Firing Line: Shooting at Australia's Refugee Centre on Manus Island in Papua New Guinea* (ASA 34/6171/2017, 14 May 2017) <https://www.amnesty.org/en/documents/document/?indexNumber=asa34%2f6171%2f2017&language=en>.

The response of the local community is, however, complex. Some in the local community have welcomed and bonded with the men. According to one of the locals:

> *Some of them came to church on Sundays and that's how we met them. The church always welcome people, it is universal. They came around, we saw them as one of us …. they come to visit a common God and some are not even Catholic but came in reverence of Catholic culture but the good thing is they extended their hand, gave gifts, food, exchange of gifts became cordial and sealed a kind of bonding and hold it to this day.*[26]

A few refugees and people seeking asylum are now in relationships with local women, and have even married and fathered children with them.

Despite the welcome of some, there remain tensions which have led to violence. There have been many incidents of assault and robbery of refugees and people seeking asylum both on Manus Island and in Port Moresby, so people fear leaving their housing or moving around alone.

In the past year, for example, a refugee was stabbed repeatedly with a screwdriver in a robbery; two intoxicated local men made death threats against those in one of the 'transit centres'; and one refugee was attacked twice, once with a machete and another time in the face during a robbery. Table 1 in the appendix details a number of recent incidents.

Very few of these incidents have been investigated. Many refugees and people seeking asylum do not trust the police to take action or to protect them. The appalling treatment of Benham Satah, a witness to the murder of Reza Barati, demonstrates why (see box). In other cases, people have even been asked for bribes when they reported a crime, or were extorted by people who posed as police officers.[27]

Benham Satah, a Kurdish Iranian man, was one of the five witnesses to the murder of his friend and roommate, Reza Barati, during the attack on the RPC in February 2014.[28] They provided statements to the police about what they saw. Benham's life since then has been one of fear for his safety. He was singled out because, a month after the incident, a photo of him speaking to a judge was published on the front page of PNG's national newspaper. As his witness statement was the most detailed, he was also the primary witness for the purpose of the trial.

[26] Interview conducted with local residents in Manus Island on behalf of RCOA, May 2018.

[27] Amnesty International, *Punishment Not Protection - Australia's Treatment of Refugees and Asylum Seekers in Papua New Guinea* (ASA 34/7781/2018, February 2018) <https://www.amnesty.org/en/documents/document/?indexNumber=ASA34%2f7781%2f2018&language=en>, 18–19.

[28] This is based on RCOA's interview with Benham Satah in October 2018, unless otherwise stated.

In July 2014, when Benham and another eye witness to the murder (who has since returned to Iran) voiced their opposition to a new policy about phone and internet access, they were taken to Chauka compound, the RPC's Behavioural Management Unit. They were cable-tied to chairs by security services, beaten, forced to sleep on a muddy floor, and repeatedly threatened with rape and murder if they did not retract their witness statements.[29] The UN Special Rapporteur on Torture, concluding that there was substance to their accounts of mistreatment in custody, found that the Australian Government had violated the right of these men to be free from torture by failing to provide any extra information or details of the investigation into these allegations.[30]

In January 2015, Benham participated in a mass hunger strike. He was the first person to be arrested and was taken to Chauka compound again before being transferred to a local prison. There he saw the men who murdered Reza Barati, and they threatened to kill him if he did not retract his witness statement.

In September 2015, he was forcibly escorted to Manus Island court to give evidence in the Reza Barati murder case. Initially refusing to give evidence because of his fears for his life, he eventually did so after being promised protection.

Despite this promise and despite being put in a special isolated area at the RPC, the guards managed to reach him. He asked to be moved to another compound, but became subject to daily intimidation and threats by guards in that compound as well. He felt too afraid to leave his room as the guards monitored his room throughout the day, some sitting outside the back of his room for hours.[31] He received many threatening text messages to pressure him to withdraw his evidence. One read: *If you don't withdraw your affidavits against us in trial. We kill all of you. Don't forget you live in Manus*.[32]

Benham Satah remains in PNG. Only two of the 15 men he believes were involved in the murder have been convicted. Those two were sentenced to 10 years in jail, five of which were suspended. He believes some of the other guards from Australia and New Zealand who were involved were flown off the island quickly. He reports that on multiple occasions he has written reports about the expatriate officers involved but never received a response and no follow up was made.

In March 2016 and ahead of his sentencing, one of the convicted escaped. No one noticed until he

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[29] Interview with RCOA.

[30] *Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment - Addendum* (A /HRC/2 8 / 68 /Add. 1, 5 March 2015) <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/044/17/PDF/G1504417.pdf?OpenElement>.

[31] Eric Tlozek and Natasha Robinson, 'Australia 'has questions to answer' over protection of Manus murder witness' *ABC News* (20 October 2015) <https://www.abc.net.au/news/2015-10-20/questions-raised-over-protection-of-reza-barati-murder-witness/6864276>.

[32] Ben Doherty, 'Witness in Reza Barati murder trial says he is dogged by death threats' *The Guardian* (23 October 2015) <https://www.theguardian.com/australia-news/2015/oct/23/witness-in-reza-barati-trial-says-he-is-dogged-by-death-threats>.

failed to appear in court. He was on the run for two weeks.[33] He escaped again in February 2017 and remains at large. In reaction to the earlier escape, a local MP said:

It's a case of a young man that is homesick. He has absconded several times accumulating six months each time. He will hand himself in and get another six months.[34]

Their fears for their safety are not misplaced. In June 2018, the police imposed a nightly curfew on those in the centres, apparently to protect them from local retribution for the death of a woman in a car crash allegedly caused by a refugee.[35]

Refugees and people seeking asylum who spoke to RCOA in 2018 reported being worried about the future and sustainability of the current arrangement. Many are worried about what might happen if their small weekly allowances are cut. This would mean they are not spending money in local markets to the benefit of the local community, creating tension with the local residents.

The closure of the RPC also removes one of the major employers on Manus Island, although there is news that Australia and PNG have recently committed to a joint naval base on the island.[36]

WHERE ARE THEY NOW?

Most of the men transferred by Australia to PNG are on Manus Island, but some are in Port Moresby, and a small number in the PNG community. Their situation is discussed later in this report.

However, in early November 2018, the PNG Government confirmed that it had transferred 21 people in Port Moresby to Manus Island, including some who had not yet received their medical treatment, and that the remainder would be sent back by the end of the week.[37] This report describes the conditions in October 2018, before these transfers took place.

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[33] Michael Gordon, 'Manus Island witness 'terrified' after Reza Barati's accused killer escapes' *The Age* (5 April 2016) <https://www.theage.com.au/politics/federal/manus-island-witness-terrified-after-reza-baratis-accused-killer-escapes-20160405-gnyjja.html>.

[34] Michael Gordon, 'Manus Island witness 'terrified' after Reza Barati's accused killer escapes' *The Age* (5 April 2016) <https://www.theage.com.au/politics/federal/manus-island-witness-terrified-after-reza-baratis-accused-killer-escapes-20160405-gnyjja.html>.l

[35] *Manus Police Chief Defends Refugee Curfew Radio New Zealand* (27 June 2018) <https://www.radionz.co.nz/international/pacific-news/360496/manus-police-chief-defends-refugee-curfew>.

[36] Amy Remeikis, 'Scott Morrison and Papua New Guinea's PM agree to joint naval base on Manus Island' *The Guardian* (1 November 2018) <https://www.theguardian.com/australia-news/2018/nov/01/scott-morrison-and-papua-new-guineas-pm-agree-to-joint-naval-base-on-manus-island>.

[37] Natalie Whiting, 'Sick refugees sent back to Manus Island ahead of APEC summit' *ABC News* (8 November 2018) <https://www.abc.net.au/news/2018-11-08/png-sends-sick-refugees-back-to-manus-island/10475430>.

MANUS ISLAND

On 24 November 2017, the last people in the RPC were forced on to buses. They were sent to three centres on Manus Island – East Lorengau Transit Centre (ELTC), West Lorengau Haus and Hillside Haus.

Centre	People as at July 2018[38]
East Lorengau Transit Centre	287
West Lorengau Haus	175
Hillside Haus	130

Only the ELTC, which had housed some refugees since it opened in 2014, was complete at the time of transfer. It has 298 beds, but in November 2017 there were 440 people housed there, some sleeping in classrooms and common areas.

West Lorengau Haus and Hillside Haus are located next to each other and were not completed by November 2017. UNHCR, visiting at the time, found them to be "incomplete, sub-standard ... and unsanitary".[39] Neither centre had appropriate toilet, bathroom and laundry facilities. The number of the toilet and shower facilities available was grossly inadequate,[40] there were no accessible toilets and only squat toilets in West Lorengau Haus.

Hillside Haus was poorly ventilated. The kitchen at West Lorengau Haus was also unfinished so meals had to be provided by Hillside Haus. The refugees who spoke to RCOA in 2018 reported that there were problems with the delivery of those meals as Hillside Haus did not have capacity to cater for such a large number of people. As of May 2018, there were no smoke detectors or fire alarms at these centres, and those living there did not have access to fire extinguishers.[41]

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[38] United Nations High Commissioner for Refugees, *UNHCR Fact Sheet on Situation of Refugees and Asylum-Seekers on Manus Island, Papua New Guinea* (5 July 2018) <http://www.unhcr.org/en-au/publications/legal/5b3ea38f7/unhcr-fact-sheet-on-situation-of-refugees-and-asylum-seekers-on-manus-island.html>.

[39] United Nations High Commissioner for Refugees, *UNHCR Fact Sheet on Situation of Refugees and Asylum-Seekers on Manus Island, Papua New Guinea* (15 December 2017) <http://www.unhcr.org/en-au/publications/legal/5a38d18d4/unhcr-fact-sheet-on-situation-of-refugees-and-asylum-seekers-on-manus-island.html>.

[40] West Lorengau Haus had one shower and one toilet for every 25 people. Hillside Haus had one shower and one toilet for every 17 people. The standard number is one shower and one toilet for every 8 people. These standards are based on International Federation of Red Cross and Red Crescent Societies/German Red Cross Shelter Guidance for long term settlement, available here: United Nations High Commissioner for Refugees, *Medical Expert Mission Papua New Guinea* (10 November 2017) <https://reliefweb.int/sites/reliefweb.int/files/resources/5a3b0f317.pdf>.

[41] United Nations High Commissioner for Refugees, *UNHCR Fact Sheet on Situation of Refugees and Asylum-Seekers on Manus Island, Papua New Guinea* (5 July 2018) <http://www.unhcr.org/en-au/publications/legal/5b3ea38f7/unhcr-fact-sheet-on-situation-of-refugees-and-asylum-seekers-on-manus-island.html>.

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 people seeking asylum 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.[42] Refugees and people seeking asylum 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."[43]

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

Once people seeking asylum 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.[44]

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

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[42] UN Human Rights Committee, *General Comment No. 35 (Article 9: Liberty and Security of the Person)* (CCPR/C/GC/35, 16 December 2014) <https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2fGC%2f35>.

[43] UN Human Rights Committee, General Comment No. 27: Freedom of Movement (Art.12) (CCPR/C/21/Rev.1/Add.9, 1 November 1999) <http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fC%2f21%2fRev.1%2fAdd.9&Lang=en>, [2], [8], [11], [13]-[14].

[44] Amnesty International, *Irregular Migrants and Asylum-Seekers: Alternatives to Immigration Detention* (POL 33/001/2009, 1 April 2009) <https://www.amnesty.org/en/documents/document/?indexNumber=POL33%2f001%2f2009&language=en>, 6.

People in West Lorengau Haus and Hillside Haus were required to use untreated water in their bathrooms and kitchens, which local authorities were concerned might present public health concerns.[45]

In conversations with RCOA in October 2018, more than one refugee described the environment in West Lorengau Haus and Hillside Haus as "suffocating". Both centres have little outdoor space, with Hillside Haus only having a narrow path between accommodation blocks.[46] While in the past people could move between the two centres, the gate linking the centres is now closed from 5pm to 6am, confining people to their centres for 13 hours a day.

The men are still living in a highly controlled environment. They must live at designated facilities as determined by the PNG Immigration Minister and seek permission to live elsewhere. They cannot travel anywhere else in PNG without permission from officials. In addition, those 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.[47]

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.

Refugees and people seeking asylum live in a heavily securitised environment where their movements are monitored. Amnesty International has 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, and access remains restricted even for human rights and humanitarian organisations.

While refugees can travel to Lorengau during the day, they are warned by private security contractors that they do so 'at their own risk'. They are not provided with protection or security and, as discussed above, they have real concerns that police will not protect them or take their complaints seriously. This effectively curtails their movements in and around town.

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[45] United Nations High Commissioner for Refugees, *UNHCR Fact Sheet on Situation of Refugees and Asylum-Seekers on Manus Island, Papua New Guinea* (15 December 2017) <http://www.unhcr.org/en-au/publications/legal/5a38d18d4/unhcr-fact-sheet-on-situation-of-refugees-and-asylum-seekers-on-manus-island.html>; United Nations High Commissioner for Refugees, *UNHCR Fact Sheet on Situation of Refugees and Asylum-Seekers on Manus Island, Papua New Guinea* (Factsheet, 21 January 2018) <http://www.unhcr.org/en-au/5a6512507.pdf?utm_source=PR_COMMS&utm_medium=email&utm_content=UNHCR%20Communication%20Service&utm_campaign=HQ_EN_BriefingNotes_171027>.

[46] United Nations High Commissioner for Refugees, *Medical Expert Mission Papua New Guinea* (10 November 2017) <https://reliefweb.int/sites/reliefweb.int/files/resources/5a3b0f317.pdf>.

[47] Stefan Armbruster, 'Khazaei inquest: Hamid's death linked to 'deficient' emergency evacuation policy' *SBS News* (15 February 2017) <https://www.sbs.com.au/news/khazaei-inquest-hamid-s-death-linked-to-deficient-emergency-evacuation-policy>.

There is a nightly curfew which means they must be in the centres after 6pm. If they breach the curfew, refugees and people seeking asylum report that they understand they will be arrested by the police and kept in a police station for the night.

> *This restriction makes everyone so frustrated and agitated. How can they say we are free if we can't go out after 6pm? We are essentially locked up.*
>
> *— Behrouz, Manus Island, October 2018*

PORT MORESBY

People who are temporarily in Port Moresby live in three different motels. Those in Port Moresby for medical reasons are housed in one motel, and those waiting for interviews for the US resettlement process or to leave PNG are in another two motels. The very few who have settled in PNG and have not been able to find a job are living in accommodation provided by the PNG Immigration & Citizenship Service Authority (ICSA).

Australia has paid the government of PNG AUD 20 million to build Bomana Immigration Centre, close to Port Moresby international airport. The centre is likely to open in November 2018. It will hold up to 50 people and it is believed that it will be used as a centre for forced removals.[48]

[48] Estimates Hearing of Immigration and Border Protection Portfolio (17 October 2016) <https://parlinfo.aph.gov.au/parlInfo/download/committees/estimate/516239db-3ab5-4777-8b43-33f6d160c55d/toc_pdf/Legal%20and%20Constitutional%20Affairs%20Legislation%20Committee_2016_10_17_4510_Official.pdf;fileType=application%2Fpdf#search=%22committees/estimate/516239db-3ab5-4777-8b43-33f6d160c55d/0004%22>, 88–89.

BREAKING THE MEN

As this section details, the men sent to PNG are being broken, as their physical and mental health rapidly decline. Some have died. Others have become permanently disabled and one man has become blind. Many are suffering from chronic illnesses. Two years ago, they already had the worst mental health rates for any surveyed population.[49]

> Will I see freedom again?
>
> My wings have become disabled in the cage of waiting.
>
> The vision of my eyes can't see from behind the grid fences any more.
>
> Hope and love are dying in my body.
>
> I have become a stranger with myself.
>
> *Kazem, musician and writer, Manus Island, 2017*

For a long time, there have been serious concerns about the availability of health care for people sent to PNG.[50] Until 30 April 2018, that care was provided under contract by International Health and Medical Services (IHMS), the service provider contracted by the Australian government to provide health care to refugees and people seeking asylum. While the RPC was open, IHMS operated a large clinic there, with an on-site pharmacy, and another clinic at ELTC for one day a week.

When the RPC was closed, those who remained inside the RPC during November 2017 had no access to health care and very limited access to medication.[51] After the closure, refugees were instead told to access the much smaller clinic at the ELTC or the local hospital. There is no clinic at the other two centres. Since 1 May 2018, health care services have been provided by Pacific International Hospital (PIH), a local PNG contractor, under arrangements with the Australian Government [52]

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[49] United Nations High Commissioner for Refugees, *Inquiry on the Serious Allegations of Abuse, Neglect and Self-Harm on Nauru and Manus Island* (Submission, November 2016) <https://www.aph.gov.au/DocumentStore.ashx?id=125eb4f5-9a67-4313-8b19-c6664a24398d&subId=460245>, 10.

[50] See, eg, Senate Legal and Constitutional Affairs References Committee, *Serious Allegations of Abuse, Self-Harm and Neglect of Asylum Seekers in Relation to the Nauru Regional Processing Centre, and Any like Allegations in Relation to the Manus Regional Processing Centre* (21 April 2017) <https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/NauruandManusRPCs/Report>.

[51] Ben Doherty, ''The situation is critical': cholera fears on Manus as water and medicine run out' *The Guardian* (20 November 2017) <https://www.theguardian.com/australia-news/2017/nov/20/the-situation-is-critical-cholera-fears-on-manus-as-water-and-medicine-run-out>.

[52] Senator Nick McKim, Answer to Question on Notice BE18/180 (7 May 2018) <https://www.aph.gov.au/api/qon/downloadestimatesquestions/EstimatesQuestion-CommitteeId6-EstimatesRoundId3-PortfolioId20-QuestionNumber21>. This was originally provided through a Letter of Intent and is now provided under contract: see 'Contract Notice View - CN3513894' *Austender* <https://www.tenders.gov.au/?event=public.CN.view&CNUUID=06E9A388-D32F-E89E-1B15BA07634F8DDA>.

Right to highest attainable standard of physical and mental health

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 centres for refugees and people seeking asylum 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. [53]

The Australian government has implemented policies which make it difficult for refugees and people seeking asylum 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 them their right to health. The Australian government has an obligation to ensure their health care needs – both physical and mental 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.

This section will explore the worsening of health care since the closure of the RPC and the ending of the IHMS contract. The Australian Government has cut back the health care offered to people, and attempted to shift the responsibility to local contractors and PNG's strained public health system. Torture and trauma counselling has stopped, and the numbers of mental health staff have halved.[54] As the situation of refugees and people seeking asylum drags on in limbo, there have been more suicide attempts and self-harm.

Access to physical health care has also become more difficult. The larger clinic at the RPC has closed, leaving a smaller clinic at ELTC. People are often transferred from Manus Island to Port Moresby, as there is no treatment available for them on the Island. Yet very few receive proper treatment in Port Moresby, according to the refugees RCOA spoke to. Many wait for months to get an appointment. Others have been told they need medical treatment that is not available in PNG, but are not being transferred to Australia to receive that treatment.[55]

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

[54] See footnote 66.

[55] Amnesty International, *Health Care Cuts: Australia's Reduced Health Care Support for Refugees and Asylum Seekers in Papua New Guinea* (ASA 34/8354/2018, 17 May 2018) <https://www.amnesty.org/en/documents/document/?indexNumber=asa34%2f8354%2f2018&language=en>, 4.

UNHCR has called for immediate action by the Australian Government to "address a collapsing health situation among refugees and asylum-seekers at off-shore facilities in Papua New Guinea and Nauru" and for them to brought to Australia.[56]

BREAKING THEIR MINDS

In 2016, UNHCR found that 88% of those then on Manus Island were suffering from depression, anxiety and/or post-traumatic stress disorder, which were "the highest recorded rates of any surveyed population".[57] The reasons for their suffering are many. They include the protracted uncertainty of offshore processing, their experiences of indefinite detention on Manus Island and elsewhere, and past trauma and persecution. Another factor is their indefinite separation from their family members and loved ones. This puts significant pressure on those relationships. Some of the men who spoke to RCOA in October 2018 said that they cannot even tell their families that they are still in limbo.

This had been compounded by their witnessing of the assaults at the RPC in February 2014.[58] According to the UNHCR medical experts who visited the men in 2016:

> *the lengthy, arbitrary, and indefinite nature of immigration detention on Manus Island, together with hopelessness in the absence of durable settlement options, had corroded the resilience of the detainees, and made them vulnerable to mental illness.*[59]

Now, more than two years after UNHCR 2016 visit, the situation has reached a breaking point. Since August 2017, three people have killed themselves in Manus Island.

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[56] United Nations High Commissioner for Refugees, *UNHCR Urges Australia to Evacuate Off-Shore Facilities as Health Situation Deteriorates* (Briefing Note, 12 October 2018) <http://www.unhcr.org/news/briefing/2018/10/5bc059d24/unhcr-urges-australia-evacuate-off-shore-facilities-health-situation-deteriorates.html>.

[57] United Nations High Commissioner for Refugees, *Inquiry on the Serious Allegations of Abuse, Neglect and Self-Harm on Nauru and Manus Island* (Submission, November 2016) <https://www.aph.gov.au/DocumentStore.ashx?id=125eb4f5-9a67-4313-8b19-c6664a24398d&subId=460245>, 10.

[58] United Nations High Commissioner for Refugees, *Inquiry on the Serious Allegations of Abuse, Neglect and Self-Harm on Nauru and Manus Island* (Submission, November 2016) <https://www.aph.gov.au/DocumentStore.ashx?id=125eb4f5-9a67-4313-8b19-c6664a24398d&subId=460245>, 11.

[59] Suresh Sundram and Peter Ventevogel, 'The mental health of refugees and asylum seekers on Manus Island' (2017) 390 *The Lancet* 2534.

The following is drawn from media reports in the Guardian:

Hamed Shamshiripour's body was found near East Lorengau transit centre in August 2017. Repeated concerns were raised by refugees, advocates in Australia and mental health professionals working within the centre about his deteriorating mental health and psychotic episodes for over a year. The Chief Medical Officer of the Australian Border Force (ABF) at the time, Dr John Brayley, was personally told about Mr Shamshiripour's state in August 2016.[60]

His case had been reported on by Guardian Australia as early as June 2016. It reported that, after having a mental breakdown, Mr Shamshiripour was allegedly assaulted by guards and police.[61] In January 2017, it reported that he had been jailed several times after behaving aggressively following severe mental health episodes. Upon release from jail he was found "hungry and homeless" in the streets of Lorengau.[62]

In October 2018, UNHCR publicly expressed its concerns about "several instances of self-harm or attempted suicide [which] have taken place in Papua New Guinea in the past month".[63]

The growing mental health crisis on the island has been documented more recently by Behrouz Boochani, a Kurdish-Iranian journalist on Manus Island. He has reported on:

- an Iraqi man who, in August 2018 tried to set himself on fire, after refusing to eat and isolating himself to his room
- a man who tried to hang himself in September 2018, but was cut down by refugees getting up to have breakfast
- a young man, sent to Manus Island when he was 19, attempted to kill himself in September 2018, and
- an Iraqi man who swallowed razor blades and nail clippers and continued to self-harm after being transferred to hospital.[64]

When people self-harm, the response by PNG authorities is haphazard. Some people are taken to police cells. Others are transferred to hospitals in Port Moresby (sometimes after a court order) or are

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[60] Ben Doherty, 'Border force doctor knew of Manus asylum seeker's deteriorating health before death' *The Guardian* (8 August 2017) <http://www.theguardian.com/australia-news/2017/aug/09/border-force-doctor-knew-of-manus-asylum-seekers-deteriorating-health-before-death>.

[61] Ben Doherty, 'Manus refugee allegedly assaulted by guards while having breakdown needs help, friends say' *The Guardian* (17 June 2016) <https://www.theguardian.com/australia-news/2016/jun/17/manus-refugee-allegedly-assaulted-by-guards-while-having-breakdown-needs-help-friends-say>.

[62] Ben Doherty, 'Manus Island refugee who had breakdown found 'hungry and homeless'' *The Guardian* (10 January 2017) <https://www.theguardian.com/australia-news/2017/jan/11/manus-island-refugee-who-had-breakdown-found-hungry-and-homeless>.

[63] United Nations High Commissioner for Refugees, *UNHCR Urges Australia to Evacuate Off-Shore Facilities as Health Situation Deteriorates* (Briefing Note, 12 October 2018) <http://www.unhcr.org/news/briefing/2018/10/5bc059d24/unhcr-urges-australia-evacuate-off-shore-facilities-health-situation-deteriorates.html>.

[64] Behrouz Boochani, 'Five years in Manus purgatory' *The Saturday Paper* (29 September 2018) <https://www.thesaturdaypaper.com.au/news/politics/2018/09/29/five-years-manus-purgatory/15381432006928>.

left without support in the community.[65]

CUTTING MENTAL HEALTH SUPPORT

Despite these critical mental health needs, there are now only four people providing mental health care for the men Australia has sent to PNG (see Table 4 in the appendix). This is half the number that were there on 31 January 2018. In October 2018, there were about 70 refugees and people seeking asylum in Port Moresby, and only one mental health staff member there.[66]

PNG's mental health system is not used to, or equipped to deal with, the issues faced by those Australia has sent to PNG. According to UNHCR:

> *The type, extent and severity of mental disorders presented by the asylum-seeker and refugee population sharply contrasts with the range of disorders typically seen within the Papua New Guinea context … Papua New Guinea mental health services are structured to assess and treat low prevalence illnesses such as schizophrenia, bipolar disorder and substance related disorders. There is no current skills capacity within Papua New Guinea public mental health services to address severe-post traumatic stress disorder and current resourcing will not be able to cope with the surge of cases with major depression.*[67]

PNG's mental health system is also severely under-resourced to deal with the issues faced by refugees and people seeking asylum. A 2015 report on psychiatric care for PNG stated that there were only seven clinical psychiatrists in the country, with five in Port Moresby. Port Moresby General Hospital has a psychiatric ward and in PIH in Port Moresby the psychiatric care is provided by a psychiatrist.[68]

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[65] Behrouz Boochani, 'Five years in Manus purgatory' *The Saturday Paper* (29 September 2018) <https://www.thesaturdaypaper.com.au/news/politics/2018/09/29/five-years-manus-purgatory/15381432006928>.

[66] Senator Stirling Griff, Answer to Question on Notice BE18/056 (7 May 2018) <https://www.aph.gov.au/Parliamentary_Business/Senate_Estimates#qon>. While the Department of Home Affairs has said this is proportional to the reduction in population, the number of refugees and people seeking asylum in PNG has not halved since 31 January 2018. The three on Manus are one psychiatrist, one mental health nurse, and one mental health nurse team leader, and sometimes a counsellor: Senator Nick McKim, Answer to Question on Notice BE18/060 (7 May 2018) <https://www.aph.gov.au/api/qon/downloadestimatesquestions/EstimatesQuestion-CommitteeId6-EstimatesRoundId3-PortfolioId20-QuestionNumber177>.

[67] United Nations High Commissioner for Refugees, *Inquiry on the Serious Allegations of Abuse, Neglect and Self-Harm on Nauru and Manus Island* (Submission, November 2016) <https://www.aph.gov.au/DocumentStore.ashx?id=125eb4f5-9a67-4313-8b19-c6664a24398d&subId=460245>, 18, 33.

[68] Leah Beth Miller, *Needs Assessment: Protection and Service Gaps for Refugees and Asylum Seekers in Manus Island and Port Moresby, Papua New Guinea* (November 2018). The Refugee Council of Australia has seen an unpublished draft of this report and has permission to use the information in the report. Page references are to the unpublished draft, but may change in the final version. Interviews and research for this report were conducted between June to September 2018.

The mental health services in Lorengau General Hospital are much more basic and unable to cater for the complex needs of this group.[69]

Mental health outreach and monitoring are no longer in place. These services were in place until the closure of the RPC and withdrawal of services in 2017, and enabled counsellors and other mental health staff to actively monitor refugees and people seeking asylum for mental health concerns. Now it is mainly up to the friends of the men to recognise the signs of distress and intervene on their behalf. This is much more complicated for those who have isolated themselves and do not interact with others.[70]

Torture and trauma counselling, provided by Overseas Services to Survivors of Torture and Trauma, which was subcontracted by IHMS and had at least two counsellors working six days a week, also ended on 8 October 2017.[71] For many, those counsellors provided a lifeline:

> *My own counsellor she was great. I cannot describe her kindness and the humane way she was treating me and others … At least we had a place to go and talk. They were listening without questioning us, without judgement and without agitating us. For me, she was the only person who was treating me as a human and she was listening to me. In October last year they stopped working and they haven't come back which is a shame. They had an important role. People who were visiting them, they got worse. They now have to use lots of tablets. We really feel their absence. When they left it was a moment of sorrow for us.*
>
> *— Benham, PNG, 2018*[72]

[69] Suresh Sundram and Peter Ventevogel, 'The mental health of refugees and asylum seekers on Manus Island' (2017) 390 *The Lancet* 2534.

[70] RCOA's interviews with refugees and people seeking asylum in PNG, 2-11 October 2018; Leah Beth Miller, *Needs Assessment: Protection and Service Gaps for Refugees and Asylum Seekers in Manus Island and Port Moresby, Papua New Guinea* (November 2018).

[71] Senator Nick McKim, Answer to Question on Notice BE18/060 (7 May 2018) <https://www.aph.gov.au/api/qon/downloadestimatesquestions/EstimatesQuestion-CommitteeId6-EstimatesRoundId3-PortfolioId20-QuestionNumber177>..

[72] Interview with RCOA, October 2018.

BREAKING THEIR BODIES

Bodies, as well as minds, are being broken on Manus Island. This is made worse by pre-existing untreated or under-treated conditions, including injuries from torture, and by the stresses on their mental health. Matters were made worse by the conditions during the forcible closure of the RPC and the overcrowded and unsanitary conditions in the centres since the closure.

For example, the Guardian has reported on an Iraqi refugee who is losing sight in one eye, after he lost sight in the other eye when he was beaten during the 2014 attack on the RPC, and a Somali refugee who received only Panadol and a bandage while living with a suspected broken femur for days.[73]

Reza (not his real name) is a 40-year-old man seeking asylum.[74] Reza says that, when he was first transferred to Manus Island, his body reacted badly to a vaccine he received. He developed significant swelling and numbness in his legs, and could not walk. He also had high blood pressure, diabetes, and issues with his heart and mental health.

He was transferred to Australia where he spent 19 months, most of it in a wheelchair. He spent time in various hospitals, and eventually his health improved enough so that he could walk and exercise again, and his diabetes was controlled.

When he was returned to Manus Island, his health declined and his diabetes was no longer under control:

When I was returned to Manus Island, I had to stand in the queue to get food. I couldn't tolerate it and would become dizzy and faint. They would take me to hospital and give me IV and then send me back. It was my daily life.

Reza was transferred to Port Moresby, where he spent six months in the hospital. He takes around 18 pills a day and is worried about their effect on his kidney and liver. He has high blood pressure and cataracts, and has lost the control of his bladder. His diabetes is no longer under control because of his circumstances,

I have so many wounds in my body at the moment which don't heal. … The doctor tells me to be careful about what I eat. But I am in this motel [where people who are in Port Moresby for medical treatment are kept] and don't have a special diet. They give me whatever they give the others. I have to eat that food otherwise I can't take my medications, but then the food is not good for someone who is diabetic….

My mental health is declining rapidly. I have nightmares every night. I wake up and see this table in the middle of the room and on it there are tens of medications, I have to take them all at various times of the day …You know what I think sometimes if someone tells me let's go to the mountains, let's go to a picnic, I can't do that anymore because I have to carry a fridge with all my medications inside it.

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[73] Ben Doherty, 'Going blind, begging for painkillers: Manus medical neglect continues' *The Guardian* (1 August 2018) <https://www.theguardian.com/australia-news/2018/aug/02/manus-medical-neglect-scandalous-australian-doctors-say>.

[74] This is based on RCOA's interview with Reza in October 2018, unless otherwise stated.

Here they don't treat you, they just give you something temporary to reduce the pain. If I go for example and say I have pain in my back, they give me Panadol. They don't treat you, they give temporary relief with tons of pills.

In January 2018, Reza went on a hunger strike for three weeks and refused treatment. His friends told us he was protesting against the lack of medical care. He was eventually confined to a hospital bed and force fed, reportedly on a court order. Hospital staff raised concerns that he would die if not transferred to Australia.[75]

Even before the closure of the RPC, there were serious concerns about the availability of health care services, some of which was detailed in a Senate inquiry.[76] For example, the inquiry received evidence that other refugees had complained to IHMS about its treatment of a man who collapsed in Manus RPC on 22 December 2016 and died a day later in a Brisbane hospital. According to that evidence, he had been sick for at least six months before the collapse, with stomach upsets, high blood pressure, fevers, and heart problems.[77]

The failures of health care on Manus Island were dramatically revealed by the coroner's inquest in July 2018 into the death of Hamid Khazaei. Mr Khazaei died in September 2014 in a Brisbane hospital from a sepsis infection, three weeks after he cut his foot on Manus Island. The coroner found that the death was preventable and the cumulative result of a series of clinical errors, bureaucratic delays and shortcomings.[78]

These included: a lack of antibiotics on Manus Island; a failure by Australian immigration officials to act promptly on a doctor's request to urgently transfer Mr Khazaei to Australia; and the lack of clinical skills and delays at PIH[79] — the place where people are now being sent for the most critical

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[75] Joe Hinchliffe, 'Manus Island asylum seeker tied down, force fed in PNG hospital' *The Sydney Morning Herald* (27 January 2018) <https://www.smh.com.au/national/manus-island-asylum-seeker-tied-down-force-fed-in-png-hospital-20180126-p4yyxy.html>.

[76] Senate Legal and Constitutional Affairs References Committee, *Serious Allegations of Abuse, Self-Harm and Neglect of Asylum Seekers in Relation to the Nauru Regional Processing Centre, and Any like Allegations in Relation to the Manus Regional Processing Centre* (21 April 2017) <https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/NauruandManusRPCs/Report>, 41–42.

[77] Senate Legal and Constitutional Affairs References Committee, *Serious Allegations of Abuse, Self-Harm and Neglect of Asylum Seekers in Relation to the Nauru Regional Processing Centre, and Any like Allegations in Relation to the Manus Regional Processing Centre* (21 April 2017) <https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/NauruandManusRPCs/Report>, 43–44.

[78] *Inquest into the Death of Hamid Khazaei* [2018] Coroners Court of Queensland 2014/3292 <https://www.courts.qld.gov.au/__data/assets/pdf_file/0005/577607/cif-khazaei-h-20180730.pdf>, 3.

[79] *Inquest into the Death of Hamid Khazaei* [2018] Coroners Court of Queensland 2014/3292

of conditions. The coroner recommended that there be "independent judicial investigation of the deaths" of those sent offshore, and a written policy on medical transfers, which would allow doctors to make the final decision to transfer people in urgent cases.[80]

It should be noted that PIH chose not to give evidence or be cross examined in this hearing, but provided submissions in writing to the Coroner, including outlining how its facilities had been expanded in Port Moresby since the time of Mr Khazaei's death.

CUTTING HEALTH CARE SERVICES ON MANUS

Since the closure of the RPC and the transfer of the contract from IHMS, it has become even harder for those sent to Manus to receive the health care they need. In November 2017, UNHCR found that the clinic at the ELTC is much smaller, less well-equipped and has fewer staff than the clinic that was previously run at the RPC. The clinic at ELTC did not include services such as dental care, optometry and physiotherapy or specialist medical clinics. There was no ambulance, or after-hours patient transport.[81]

The clinic also operates only during business hours and on Saturday mornings.[82] People need to submit a request to see someone in the clinic, and in some cases it has taken weeks for an appointment. The clinic only offers services on site, and people living in the other two centres must rely on the transport services provided by Paladin Security or make their own way.

When Amnesty published its report on the effect of these cuts in May 2018, Australian officials gave an overview of medical facilities that was inconsistent with that described by UNHCR and others who had visited the centre, stating that health care is comparable with that provided in Australia. However, they did acknowledge that the clinic would be smaller than it had been previously, have less equipment, not include a pharmacy, and only operate for certain hours. No explanation was given as to why the Australian government now considers reduced health care services appropriate for refugees who remain trapped in the country and under its effective control.[83]

<https://www.courts.qld.gov.au/__data/assets/pdf_file/0005/577607/cif-khazaei-h-20180730.pdf>, 3–4; Josh Robertson and staff, ''Preventable': The sorry tale of an asylum seeker who ended up brain dead' *ABC News* (30 July 2018) <https://www.abc.net.au/news/2018-07-30/asylum-seeker-hamid-khazaei-coronial-inquest-death-preventable/10050512>.

[80] *Inquest into the Death of Hamid Khazaei* [2018] Coroners Court of Queensland 2014/3292 <https://www.courts.qld.gov.au/__data/assets/pdf_file/0005/577607/cif-khazaei-h-20180730.pdf>, 118–126.

[81] United Nations High Commissioner for Refugees, *Medical Expert Mission Papua New Guinea* (10 November 2017) <https://reliefweb.int/sites/reliefweb.int/files/resources/5a3b0f317.pdf>, 4–8.

[82] RCOA's interviews with refugees and people seeking asylum in PNG, 2-11 October 2018; Leah Beth Miller, *Needs Assessment: Protection and Service Gaps for Refugees and Asylum Seekers in Manus Island and Port Moresby, Papua New Guinea* (November 2018).

[83] Amnesty International, *Health Care Cuts: Australia's Reduced Health Care Support for Refugees and Asylum Seekers in Papua New Guinea* (ASA 34/8354/2018, 17 May 2018)

Many people are referred from the ELTC clinic to the Lorengau General Hospital (which also treats them after hours and provides emergency care and a 'surge service' in the event of any major health crisis). After visiting Lorengau General Hospital in November 2017, UNHCR noted that:

> *The hospital was 33% over-capacity, while 50% of medical specialist positions (surgeon, anaesthetist and obstetrician) and 43% of nursing positions were unfilled. The hospital lacked crucial medical infrastructure (ventilators, medical incinerator) and was in need of basic products, such as intravenous fluids.*[84]

The hospital also did not have a reliable ambulance service or interpreters, according to UNHCR following its visit to PNG in November 2017.[85] Those on Manus have confirmed that there is still no interpreter (there or elsewhere in the health care system), so those with better command of English often need to travel with their friends to interpret.[86]

MAKING IT HARDER TO GET CARE OUTSIDE MANUS

If people's health conditions cannot be treated on Manus Island, they are transferred to Port Moresby. It can take between four to six months to transfer them there.[87] As of October 2018, we understand there are over 70 people in Port Moresby for medical treatment. Many have been there for over six months.[88]

There are people with hernia, stomach and gastric issues, vision impairment, and severe mental health issues. One man was suffering from such severe and prolonged stomach pain that he punched a wall, injuring his knuckles. Several others have had injuries to their tissues and bones which required surgery, but their treatment had been complicated by delays in being transferred to Port Moresby.[89]

Those in Port Moresby can receive medical care during business hours either from PIH's private

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<https://www.amnesty.org/en/documents/document/?indexNumber=asa34%2f8354%2f2018&language=en>, 8–9.

[84] United Nations High Commissioner for Refugees, *Medical Expert Mission Papua New Guinea* (10 November 2017) <https://reliefweb.int/sites/reliefweb.int/files/resources/5a3b0f317.pdf>, 2–3.

[85] United Nations High Commissioner for Refugees, *Medical Expert Mission Papua New Guinea* (10 November 2017) <https://reliefweb.int/sites/reliefweb.int/files/resources/5a3b0f317.pdf>, 4.

[86] RCOA's interviews with refugees and people seeking asylum in PNG, 2-11 October 2018; Leah Beth Miller, *Needs Assessment: Protection and Service Gaps for Refugees and Asylum Seekers in Manus Island and Port Moresby, Papua New Guinea* (November 2018), 10–11.

[87] Emergency transfers are available for those with life-threatening conditions. RCOA's interviews with refugees and people seeking asylum in PNG, 2-11 October 2018; Leah Beth Miller, *Needs Assessment: Protection and Service Gaps for Refugees and Asylum Seekers in Manus Island and Port Moresby, Papua New Guinea* (November 2018).

[88] RCOA's interviews with refugees and people seeking asylum in PNG, 2-11 October 2018;

[89] According to RCOA's interviews with refugees in Port Moresby, 2-11 October 2018.

hospital or, for after hours or emergency care, from Port Moresby General. While the private PIH hospital is better equipped than general hospitals in PNG, it does not have enough specialists and relies on visiting medical specialists. In November 2017, the hospital confirmed that it did not have an oncologist or neurosurgeon and had only a visiting psychiatrist.[90] As mentioned, with no interpreter available, refugees with better command of English are often required to interpret for others. This increases the risks of misdiagnosis, as well as making it harder to ensure informed consent and appropriate follow-up care.[91]

In October and November 2017, Amnesty International visited Port Moresby and spoke to 30 refugees or people seeking asylum who were there for medical treatment. They were suffering from suspected cancer lumps, gastric issues, vision impairment and mental health problems. Some were still receiving treatment for physical injuries sustained during the February 2014 attack on Manus Island RPC.

Some of these people had been told by medical professionals that their conditions could not be treated in PNG because of the lack of specialists and required transfers to Australia. They remained in Port Moresby with no information on when and where they will be transferred to get treatment.[92] UNHCR raised particular concern about this group:

> *A subgroup of these patients with complex conditions is awaiting transfer to overseas hospitals and treatment services, since there are no appropriate services for these patients in Port Moresby ... It can be anticipated unless urgent action is taken to provide suitable treatment, that permanent dysfunction will occur for a number of these cases.*[93]

In the last few years, the number of refugees and people seeking asylum that have been transferred to Australia from PNG has been declining (see Figure 1). Between 1 January 2017 and 30 July 2018, there were only nine transfers from Manus to Australia, in comparison to 180 transfers from Manus to Port Moresby and 40 transfers from Nauru to Australia.[94] There does not appear to be an

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[90] Amnesty International, *Health Care Cuts: Australia's Reduced Health Care Support for Refugees and Asylum Seekers in Papua New Guinea* (ASA 34/8354/2018, 17 May 2018) <https://www.amnesty.org/en/documents/document/?indexNumber=asa34%2f8354%2f2018&language=en>, 8.

[91] RCOA's interviews with refugees and people seeking asylum on Manus Island, 2-11 October 2018; Leah Beth Miller, *Needs Assessment: Protection and Service Gaps for Refugees and Asylum Seekers in Manus Island and Port Moresby, Papua New Guinea* (November 2018), 10–11.

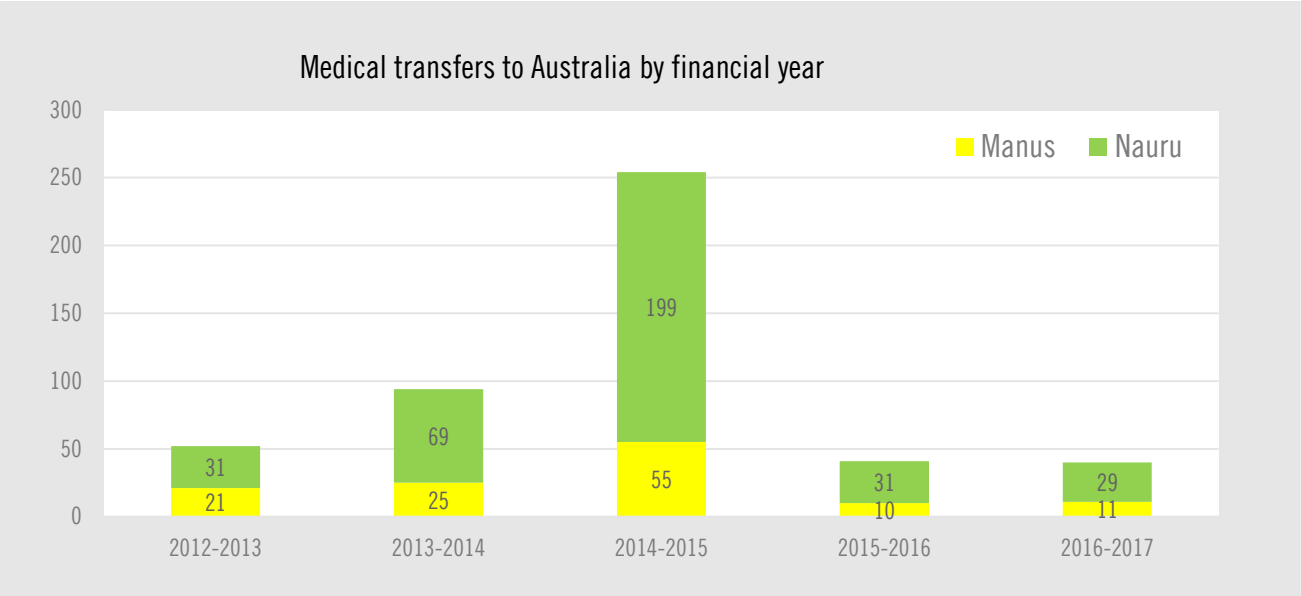
[92] Amnesty International, *Health Care Cuts: Australia's Reduced Health Care Support for Refugees and Asylum Seekers in Papua New Guinea* (ASA 34/8354/2018, 17 May 2018) <https://www.amnesty.org/en/documents/document/?indexNumber=asa34%2f8354%2f2018&language=en>, 8.

[93] United Nations High Commissioner for Refugees, *Medical Expert Mission Papua New Guinea* (10 November 2017) <https://reliefweb.int/sites/reliefweb.int/files/resources/5a3b0f317.pdf>, 9.

[94] Senator Nick McKim, Answer to Question on Notice BE18/312 (14 September 2018) <https://www.aph.gov.au/Parliamentary_Business/Senate_Estimates#qon>.

agreement with any third country for provision of medical care to people in PNG.[95]

Figure 1: Medical transfers of refugees and people seeking asylum to Australia by financial year



Source: Senator Kim Carr, Answer to Question on Notice AE18/147 (26 February 2018) <https://www.aph.gov.au/api/qon/downloadestimatesquestions/EstimatesQuestion-CommitteeId6-EstimatesRoundId2-PortfolioId20-QuestionNumber142>.

PAYING FOR THEIR OWN HEALTH CARE

Increasingly, refugees and people seeking asylum are being denied the health care they need because they have to pay for their own medications, medical records and after-hours care, but cannot afford to do so. Refugees have told RCOA that some of their medical costs are only affordable because they are being paid for in part through donations from private individuals in Australia.[96]

Refugees and people seeking asylum on Manus Island told RCOA that they are now often required to pay for their own medication at the only pharmacy in town, and even then the pharmacy often runs out of the medication they require. The hospital can at times provide some prescribed medications

[95] There is an agreement with Taiwan, although this only appears to be for refugees on Nauru: David Wroe, 'Send them to Taiwan: Turnbull government's secret refugee deal revealed' *The Sydney Morning Herald* (23 June 2018) <https://www.smh.com.au/politics/federal/send-them-to-taiwan-turnbull-government-s-secret-refugee-deal-revealed-20180622-p4zn7d.html>. However, the Australian Government has refused to release the terms of this agreement, so it remains unclear exactly what is encompassed under the deal.

[96] RCOA's interviews with refugees and people seeking asylum in Manus Island and Port Moresby, 2-11 October 2018; Leah Beth Miller, *Needs Assessment: Protection and Service Gaps for Refugees and Asylum Seekers in Manus Island and Port Moresby, Papua New Guinea* (November 2018).

without a fee. The ELTC clinic provides Panadol and some general medications free of charge.[97]

Those on Port Moresby report needing to pay for their own health care after hours.[98] They often go to Port Moresby General Hospital as it is cheaper than PIH.[99] Although some people have negotiated to be admitted for free after hours, the process appears to be arbitrary and inconsistent.[100]

People also have to pay to get their medical records. This now costs around 600 kina (about $AU250). This makes it difficult to seek a second opinion and to ensure adequate health care.

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[97] RCOA's interviews with refugees and people seeking asylum in Manus Island and Port Moresby, 10-15 October 2018 Leah Beth Miller, *Needs Assessment: Protection and Service Gaps for Refugees and Asylum Seekers in Manus Island and Port Moresby, Papua New Guinea* (November 2018), 8.

[98] Leah Beth Miller, *Needs Assessment: Protection and Service Gaps for Refugees and Asylum Seekers in Manus Island and Port Moresby, Papua New Guinea* (November 2018), 11.

[99] The terms of the Letter of Intent between the Australian Government and PIH, revealed in Senate estimates, are unclear: "In Port Moresby, in accordance with the Letter of Intent, a resident will receive treatment from PIH for the purpose for which they were medically transferred … Port Moresby General Hospital may clinically refer a resident to PIH for treatment, in which case the costs of the treatment will be covered under the Letter of Intent": Senator Nick McKim, Answer to Question on Notice BE18/054 (7 May 2018) <https://www.aph.gov.au/api/qon/downloadestimatesquestions/EstimatesQuestion-CommitteeId6-EstimatesRoundId3-PortfolioId20-QuestionNumber88>. This suggests that PIH only treats the issues for which a person is transferred to Port Moresby, and so it is unclear how they will receive care if they are injured or fall ill for other reasons while in Port Moresby.

[100] RCOA's interviews with refugees and people seeking asylum in Manus Island and Port Moresby, 2-11 October 2018

UNTIL WHEN?

> *The refugees are never certain of their future … they are in a hole, put a lid to a little hole to breathe some air.*
>
> *- Local Manus resident, May 2018*

For the men on Manus and in PNG, there appears to be no real way out. Although Australia struck a deal with Cambodia to resettle refugees on Nauru, it did not apply to refugees in PNG.[101] There is an agreement between Australia and the US to resettle about 1,250 people from Nauru and in PNG, as well as a standing offer by New Zealand to resettle 150 refugees which has not yet been accepted. However, both the US and New Zealand have expressed a preference for women, children and families,[102] leaving the men on Manus Island lower on the priority list. More than half of the men in PNG are from countries subject to 'extreme vetting' under US policy. Only a couple of people have been able to get to another country, including one person who has reached Canada and another to northern Europe, through other schemes.

There are no resettlement options at all for those who have not been recognised as refugees. Although 79% of those now in PNG have been recognised as refugees, there are real concerns about the robustness of the process, especially as around 60 people did not participate in the process and many were given a negative status without assessment. For those in this position, the risk of being forced to go home are becoming much more real, with 12 out of the 20 known deportations in 2018 alone. [103]

As already discussed, in recent years there has been a decline in the number of transfers of people in PNG to Australia for medical or protection reasons. For those who have been transferred, life in Australia is a life in limbo, with no legal protection from being transferred back to PNG. Increasingly, too, the Australian Government has been stripping these people of the most basic of supports, such

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[101] Memorandum of Understanding between the Government of the Kingdom of Cambodia and the Government of Australia, Relating to the Settlement of Refugees in Cambodia (26 September 2014) <http://www.minister.immi.gov.au/scottmorrison/files/cambodia-australia-mou-operational-guidelines.pdf>.

[102] Hon Peter Dutton (Minister for Immigration and Border Protection), Refugee Resettlement from Regional Process Centres (Media Release, 13 November 2016) <http://pandora.nla.gov.au/pan/143035/20171220-0959/www.minister.border.gov.au/peterdutton/Pages/Refugee-resettlement-from-Regional-Process-Centres.html>; 1. Eleanor Ainge Roy, 'Australia asked New Zealand to keep refugee offer on table, documents show' The Guardian (12 April 2018) <http://www.theguardian.com/world/2018/apr/12/australia-wants-new-zealand-to-keep-refugee-offer-on-table-documents-show>.

[103] Senator Kim Carr, Answer to Question on Notice BE18/244 (5 July 2018) <https://www.aph.gov.au/Parliamentary_Business/Senate_Estimates#qon>; Senator Kim Carr, Answer to Question on Notice BE18/246 (5 July 2018) <https://www.aph.gov.au/api/qon/downloadestimatesquestions/EstimatesQuestion-CommitteeId6-EstimatesRoundId3-PortfolioId20-QuestionNumber94>.

as income support and subsidised medication, and leaving them destitute.[104]

For many, the choice is between a tenuous life in PNG, where they struggle to find sustainable work that is paid at a fair wage, or 'voluntarily' returning home to face danger. For some, there are also real fears for their safety in the PNG community. The intense pressure to 'voluntarily' return, and the lack of other options, has meant that, of the 1,523 people sent to Manus, 646 (42%) people have been 'voluntarily' returned to their country of origin.[105] For the most part, we do not know where they have been sent, or what has happened to them.

RESETTLEMENT

THE US

On 13 November 2016, the Australian Government announced it had reached a deal with the US government to resettle people in offshore facilities to the United States of America. The resettlement process was to be "gradual" and subject to standard resettlement admissions for the US.[106] The US government has indicated that there is an 'indicative target' of 1,250 people from both Nauru and PNG who could be resettled under the deal.[107] Even if fully achieved, this leaves behind a significant number of people in both places.

Priority was to be given to the vulnerable, "namely women, children and families",[108] meaning that the men in PNG are a lower priority than families on Nauru. This is borne out by the current rate of resettlement, as indicated in the following chart.

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[104] Joshua Robertson and agencies, 'Coalition to cut income support for 100 asylum seekers in Australia' *The Guardian* (27 August 2017) <http://www.theguardian.com/australia-news/2017/aug/27/coalition-to-cut-income-support-up-to-100-asylum-seekers-in-australia-report>. While the initial reports indicated that around 100 would have be put on these bridging visas, later Senate estimates confirmed that 62 were cut off: Senator Stirling Griff, Answer to Question on Notice AE18/249 (26 February 2018) <https://www.aph.gov.au/api/qon/downloadestimatesquestions/EstimatesQuestion-CommitteeId6-EstimatesRoundId3-PortfolioId20-QuestionNumber162>.

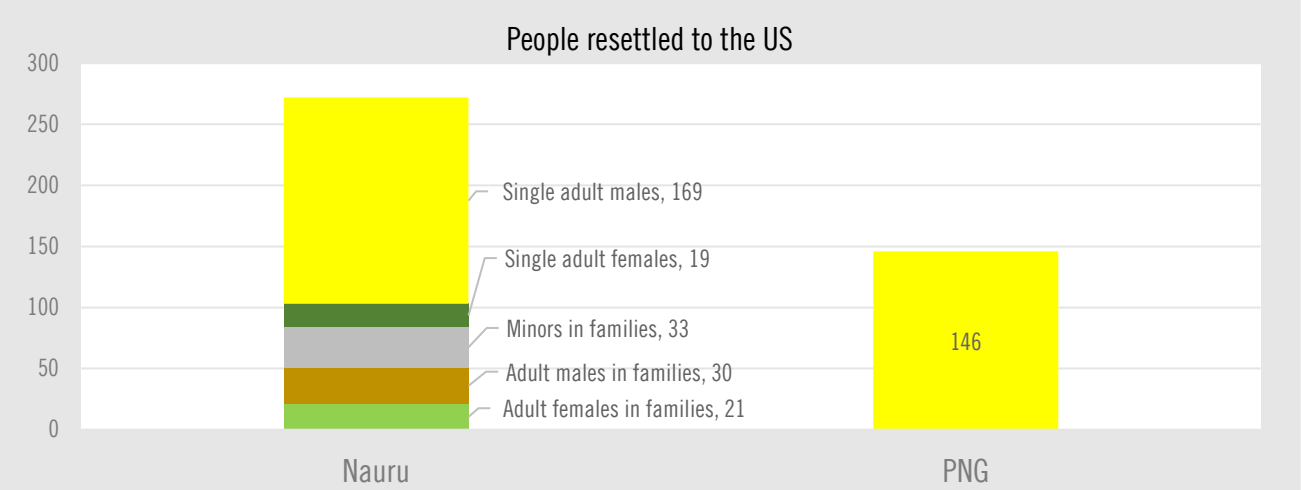
[105] Senator Kim Carr, Answer to Question on Notice BE18/244 (5 July 2018) <https://www.aph.gov.au/Parliamentary_Business/Senate_Estimates#qon>; Senator Kim Carr, Answer to Question on Notice BE18/246 (5 July 2018) <https://www.aph.gov.au/api/qon/downloadestimatesquestions/EstimatesQuestion-CommitteeId6-EstimatesRoundId3-PortfolioId20-QuestionNumber94>.

[106] Hon Peter Dutton (Minister for Immigration and Border Protection), *Refugee Resettlement from Regional Process Centres* (Media Release, 13 November 2016) <http://pandora.nla.gov.au/pan/143035/20171220-0959/www.minister.border.gov.au/peterdutton/Pages/Refugee-resettlement-from-Regional-Process-Centres.html>.

[107] Senator Kim Carr, Answer to Question on Notice AE17/211 (27 February 2017) <https://www.aph.gov.au/~/media/Committees/legcon_ctte/estimates/add_1617/DIBP/QoNs/AE17-211.pdf>.

[108] Hon Peter Dutton (Minister for Immigration and Border Protection), Refugee Resettlement from Regional Process Centres (Media Release, 13 November 2016) <http://pandora.nla.gov.au/pan/143035/20171220-0959/www.minister.border.gov.au/peterdutton/Pages/Refugee-resettlement-from-Regional-Process-Centres.html>.

Figure 2: People resettled to the US, by family composition



Source: Estimates Hearing of Home Affairs Portfolio (22 October 2018) <https://parlinfo.aph.gov.au/parlInfo/download/committees/estimate/6cdc8323-2613-4520-a941-81fd0b795cca/toc_pdf/Legal%20and%20Constitutional%20Affairs%20Legislation%20Committee_2018_10_23_6693.pdf;fileType=application%2Fpdf#search=%22committees/estimate/6cdc8323-2613-4520-a941-81fd0b795cca/0000%22>, 111.

The combination of having been held for years before the US resettlement deal was struck, and then spending nearly two years going through a separate refugee assessment process, means that many people face prolong delays before their resettlement in the US. The first group left from Manus Island on 26 September 2017, nearly 11 months after the deal was first announced. By 22 October 2018, nearly two years after the agreement was struck, only 418 people (or about a third of the 'indicative target') had been resettled to the US. Only 146 of those were from Manus.[109]

These delays are probably due in part to US President Donald Trump's hardline immigration policy.[110] Trump has drastically cut the quota for its overall refugee resettlement program. The cap was reduced from 110,000 to 45,000 in fiscal year 2018, although only 22,491 people were actually resettled in that year.[111] The cap will drop even further to 30,000 in 2019, an historic low

[109] Estimates Hearing of Home Affairs Portfolio (22 October 2018) <https://parlinfo.aph.gov.au/parlInfo/download/committees/estimate/c9057e7c-a164-4ec6-b736-50bf92e1d970/toc_pdf/Legal%20and%20Constitutional%20Affairs%20Legislation%20Committee_2018_10_22_6688.pdf;fileType=application%2Fpdf#search=%22committees/estimate/c9057e7c-a164-4ec6-b736-50bf92e1d970/0000%22>.

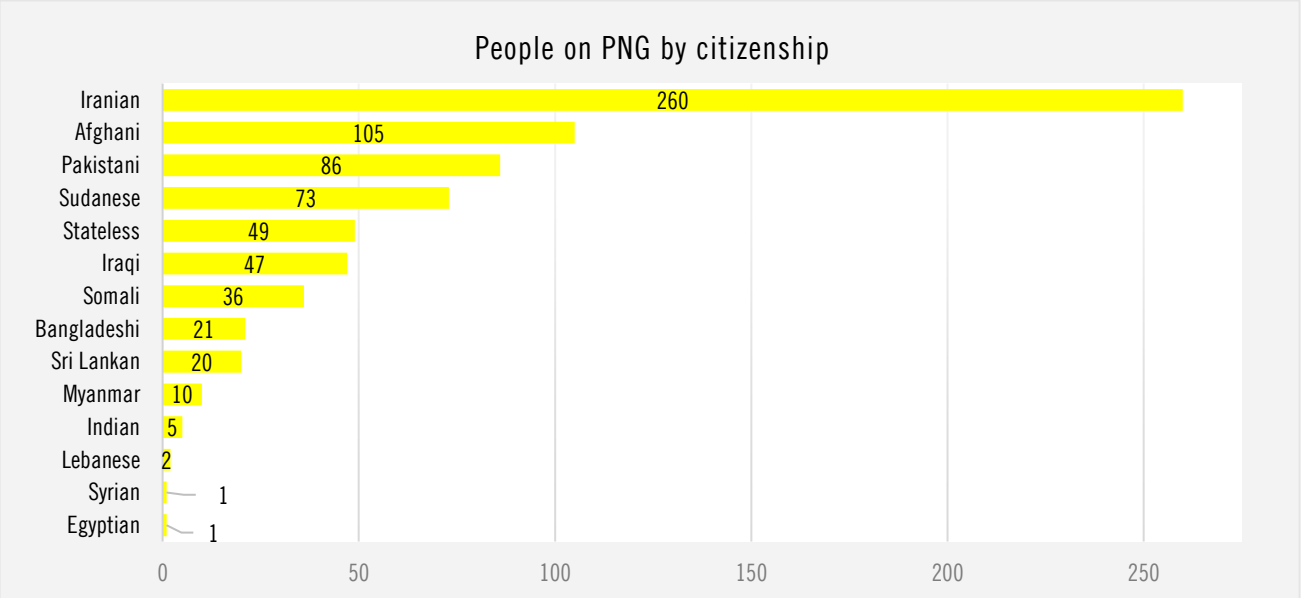
[110] Sarah Pierce, Jessica Bolter, and Andrew Selee, *US Immigration Policy under Trump: Deep Changes and Lasting Impacts* (Migration Policy Institute, 18 July 2018) <https://www.migrationpolicy.org/research/us-immigration-policy-trump-deep-changes-impacts>.

[111] The US fiscal year ends on 30 September. Refugee Processing Center (US), Refugee Admissions Report (30 September 2018) <http://www.wrapsnet.org/admissions-and-arrivals/>; Krishnadev Calamur, 'Another Blow Against Refugees' *The Atlantic* <https://www.theatlantic.com/international/archive/2018/09/us-refugees/570523/>. The cap is for the year to the end of 30 September 2018; Refugee Processing Center (US), Refugee Admissions Report (30 September 2018) <http://www.wrapsnet.org/admissions-and-arrivals/>.

for the US.[112]

There have also been three versions of an executive order to bar the entry, with limited exceptions, into the US of almost all people from certain Muslim-majority countries (especially Iran and Somalia). Other policies also suspended refugee resettlement for a period and required more stringent screening of 'high-risk' countries (referred to as 'extreme vetting').[113] There are also fears that anti-terrorism legislation may prejudice the resettlement of Tamils from Sri Lanka.[114]

Figure 3: People on PNG by nationality as at 21 May 2018



Source: Senator Kim Carr, Answer to Question on Notice BE18/246 (5 July 2018) <05/07/2018>.

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[112] Krishnadev Calamur, 'Another Blow Against Refugees' *The Atlantic* <https://www.theatlantic.com/international/archive/2018/09/us-refugees/570523/>. The cap is for the year to the end of 30 September 2018.

[113] The third version of this 'travel ban', upheld by the US Supreme Court, provides for a general ban on the entry of nationals of seven countries (Chad, Iran, Libya, North Korea, Syria, Somalia, and Yemen), with some exceptions for those on certain types of non-immigrant visas and some possible exceptions: Presidential Proclamation Enhancing Vetting Capabilities and Processes for Detecting Attempted Entry Into the United States by Terrorists or Other Public-Safety Threats (24 September 2017) <https://www.whitehouse.gov/presidential-actions/presidential-proclamation-enhancing-vetting-capabilities-processes-detecting-attempted-entry-united-states-terrorists-public-safety-threats/>. The second version suspended the entry of nationals from Iran, Libya, Somalia, Sudan, Syria, and Yemen for 90 days from the order, subject to some exceptions and waivers, introduced more stringent screening procedures for those from Iraq, and suspended travel for refugees under its resettlement program, and decisions on refugee status, for 120 days and suspended the entry of any more than 50,000 refugees: Executive Order Protecting The Nation From Foreign Terrorist Entry Into The United States (6 March 2017) <https://www.whitehouse.gov/presidential-actions/executive-order-protecting-nation-foreign-terrorist-entry-united-states-2/>.

[114] James Bennett and Stephen Dziedzic, 'US may deny resettlement of hundreds of Tamils on Nauru, Manus' *ABC News* (20 July 2017) <http://www.abc.net.au/news/2017-07-20/us-may-deny-resettlement-of-hundreds-of-tamils-on-nauru,-manus/8726034>.

While the precise effect of these policies on the US resettlement deal with Australia remains unclear, their singling out of particular nationalities is especially significant. Over 57% of those remaining in PNG are from nationalities at risk of 'extreme vetting', which may mean it takes much longer for a final decision to be made in their cases, and may make it harder for people to satisfy US requirements. The largest nationality affected are those from Iran (there were 260 people from Iran remaining in PNG, as of 21 May 2018, most of whom are still waiting for decisions).[115]

The prospect of resettlement for people on Manus Island so far is hard to determine, because far fewer applications from Manus Island have been decided compared to Nauru, meaning most people are waiting to hear the outcome. To date, 40 people in PNG have had their claims rejected, out of the total 188 applications which have been rejected so far overall.[116] However, the patterns of rejection do appear to raise concerns that those subject to 'extreme vetting' would find it difficult to be resettled, as two-thirds of the rejected applications have been from people from those countries.[117]

For example, as of 22 October 2018, around 48% of those rejected on both Nauru and Manus Island (91 people, 79 on Nauru and 12 on PNG) were from Iran, compared to 16 Iranians who had been accepted from both islands (14 on Nauru, 2 on PNG).[118] That means, 82% of the decisions involving Iranians have so far been refusals. Rejections by the US have caused intense despair among those waiting for decisions on US resettlement in PNG.

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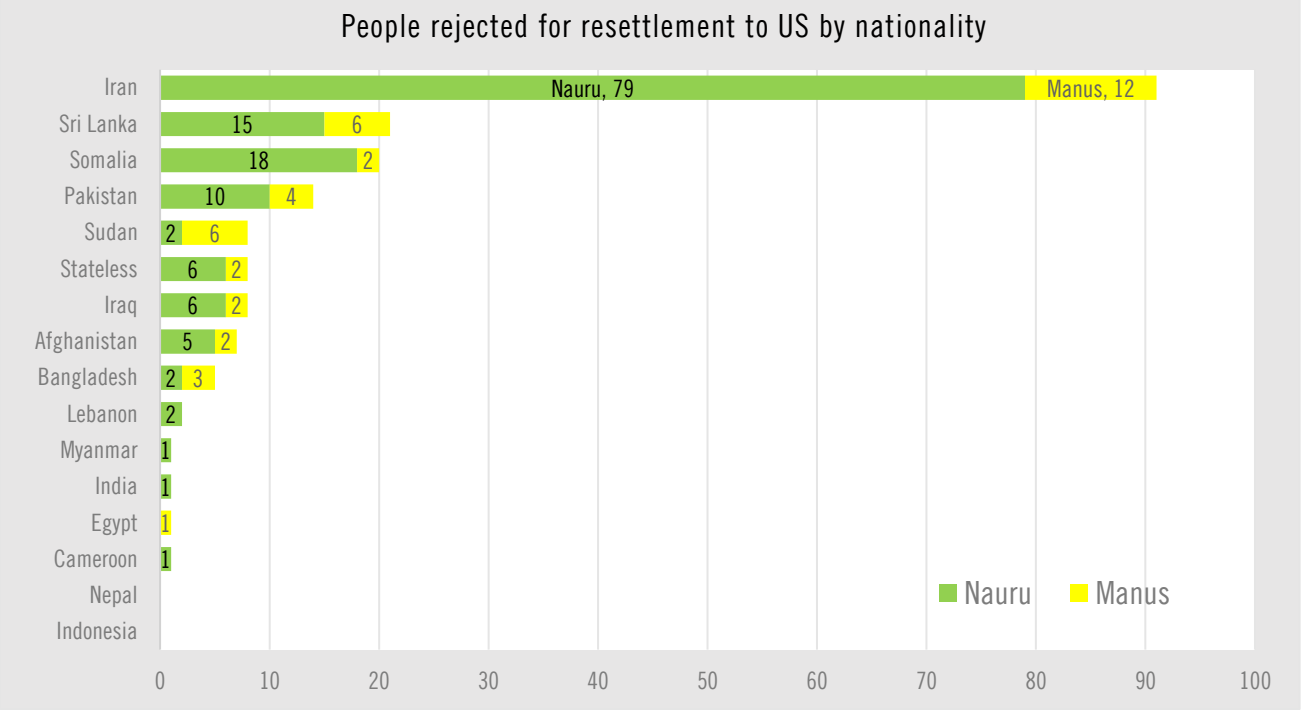
[115] Senator Kim Carr, Answer to Question on Notice BE18/244 (5 July 2018) <https://www.aph.gov.au/Parliamentary_Business/Senate_Estimates#qon>.

[116] Estimates Hearing of Home Affairs Portfolio (22 October 2018) <https://parlinfo.aph.gov.au/parlInfo/download/committees/estimate/c9057e7c-a164-4ec6-b736-50bf92e1d970/toc_pdf/Legal%20and%20Constitutional%20Affairs%20Legislation%20Committee_2018_10_22_6688.pdf;fileType=application%2Fpdf#search=%22committees/estimate/c9057e7c-a164-4ec6-b736-50bf92e1d970/0000%22>, 110–113.

[117] Calculated from Estimates Hearing of Home Affairs Portfolio (22 October 2018) <https://parlinfo.aph.gov.au/parlInfo/download/committees/estimate/c9057e7c-a164-4ec6-b736-50bf92e1d970/toc_pdf/Legal%20and%20Constitutional%20Affairs%20Legislation%20Committee_2018_10_22_6688.pdf;fileType=application%2Fpdf#search=%22committees/estimate/c9057e7c-a164-4ec6-b736-50bf92e1d970/0000%22>, 110–113.

[118] Estimates Hearing of Home Affairs Portfolio (22 October 2018) <https://parlinfo.aph.gov.au/parlInfo/download/committees/estimate/c9057e7c-a164-4ec6-b736-50bf92e1d970/toc_pdf/Legal%20and%20Constitutional%20Affairs%20Legislation%20Committee_2018_10_22_6688.pdf;fileType=application%2Fpdf#search=%22committees/estimate/c9057e7c-a164-4ec6-b736-50bf92e1d970/0000%22>, 110–117.

Figure 4: People rejected for resettlement in the US by nationality, 22 October 2018



Estimates Hearing of Home Affairs Portfolio (22 October 2018) <https://parlinfo.aph.gov.au/parlInfo/download/committees/estimate/6cdc8323-2613-4520-a941-81fd0b795cca/toc_pdf/Legal%20and%20Constitutional%20Affairs%20Legislation%20Committee_2018_10_23_6693.pdf;fileType=application%2Fpdf#search=%22committees/estimate/6cdc8323-2613-4520-a941-81fd0b795cca/0000%22>.

There are two other groups in particular whose fate under the US resettlement deal remains unclear. First, UNHCR had agreed to help with the deal on the condition that a way would be found to reunite a small number of people with close family in Australia, but the Australian Government reneged on this.[119] Second, those in Australia for medical treatment (or following their family here) have not been able to apply for US resettlement, without 'voluntarily' returning offshore.[120] There continues to be no resolution for this problem.

[119] United Nations High Commissioner for Refugees, *UNHCR Chief Filippo Grandi Calls on Australia to End Harmful Practice of Offshore Processing* (Media Release, 24 July 2017) <http://www.unhcr.org/news/press/2017/7/597217484/unhcr-chief-filippo-grandi-calls-australia-end-harmful-practice-offshore.html>.

[120] Amy Remeikis, 'Refugee deal: Sex assault victims must return to Nauru, Manus for chance at US resettlement' *The Sydney Morning Herald* (16 November 2016).

NEW ZEALAND

Since 2013, New Zealand has offered to resettle 150 people seeking asylum from Nauru and Manus Island, although like the US it has expressed a preference for families.[121] The offer has been renewed since the election of a new government in New Zealand in 2017 and confirmed more recently with suggestions by the Prime Minister that children and their families in Nauru could be resettled in New Zealand.[122]

However, the Prime Minister indicated that it would be unacceptable to resettle anyone in New Zealand, unless Parliament passed legislation imposing a blanket ban on anyone subject to offshore processing from entering Australia on any kind of visa.[123] The Government now appears to have rejected the Australian Labor Party's offer to negotiate on this legislation.[124] Both Labor and the Coalition are still refusing to consider resettling people they have sent to Nauru or PNG in Australia. It is therefore unclear in the present political circumstances if any of those people will be resettled to New Zealand.

ELSEWHERE

A handful of people have found safety in a third country. Amir Taghinia is the only refugee who has been resettled in Canada from PNG, under a private sponsorship scheme.[125] Ali Durani, the cartoonist known as Eaten Fish, was resettled in northern Europe through the International Cities of Refuge Network.[126]

According to Senate estimates in May 2018, there were 10 people (in both Nauru and PNG) who were exploring resettlement options in third countries through family links or otherwise.[127] However,

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[121] Eleanor Ainge Roy, 'Australia asked New Zealand to keep refugee offer on table, documents show' *The Guardian* (12 April 2018) <http://www.theguardian.com/world/2018/apr/12/australia-wants-new-zealand-to-keep-refugee-offer-on-table-documents-show>.

[122] Philip Coorey, 'PM signals willingness to bend on asylum seekers' *Financial Review* (16 October 2018) <https://www.afr.com/news/pm-signals-willingness-to-bend-on-asylum-seekers-20181016-h16pin>.

[123] For an explanation, see Refugee Council of Australia, *Briefing on Lifetime Visa Ban* (Legislative Brief, 11 November 2016) <http://www.refugeecouncil.org.au/publications/reports/asylum-reports/lifetime-visa-ban-bill/>.

[124] Dan Conifer, Henry Belot, and Melissa Clarke, ''Labor thinks this is something to trade over': PM plays down deal on NZ resettlement on refugees' *ABC News* <https://www.abc.net.au/news/2018-10-23/labor-backs-moving-refugee-children-on-nauru-to-new-zealand/10416720>.

[125] Ben Doherty, 'Manus refugee who reached Canada last week says deaths are 'very likely'' *The Guardian* (6 November 2017) <http://www.theguardian.com/australia-news/2017/nov/06/manus-refugee-who-reached-canada-last-week-says-deaths-are-very-likely>.

[126] Ben Doherty, 'Eaten Fish, Manus Island's refugee cartoonist, given sanctuary in northern Europe' *The Guardian* (18 December 2017) <http://www.theguardian.com/australia-news/2017/dec/19/eaten-fish-manus-islands-refugee-cartoonist-moves-to-northern-europe>.

[127] Department of Home Affairs, 2018-2019 Budget Estimates (21 May 2018)

there are significant practical and legal barriers involved. These include access to legal advice without funding, the need to have returned passports and identity documents, which were confiscated on arrival by the Australian government, the need to get government permission to leave Manus Island or Port Moresby to meet visa requirements,[128] and the need to get police checks from countries that they have fled.

LIFE IN LIMBO

AUSTRALIA

Around 460 people are in Australia from Nauru or PNG for medical treatment or other protection reasons, or accompanying a family member. It is unclear how many of them came from PNG, although, as Figure 1 indicates, fewer people are being transferred from PNG in recent years.

Those in Australia are in a state of limbo. Their presence in Australia is fragile, protected only by a government undertaking to not remove them without 48 hours' notice. Most of them are in community detention (293 as of 21 May 2018), where they must live in a specified residence subject to curfews. Those in community detention are at least provided a basic living allowance and other critical supports including health care, case management and access to torture and trauma counselling.

However, in late 2017, without notice, the Government decided to remove these supports from 62 people, all of whom had been transferred from offshore. They were put on bridging visas (BVE) in the community without any form of support.[129] The Government did the same again in 2018, so that, as at 21 May 2018, there were 149 people transferred from Nauru or Manus Island who were living in the community without any access to income or casework support, nor access to subsidised medication.[130]

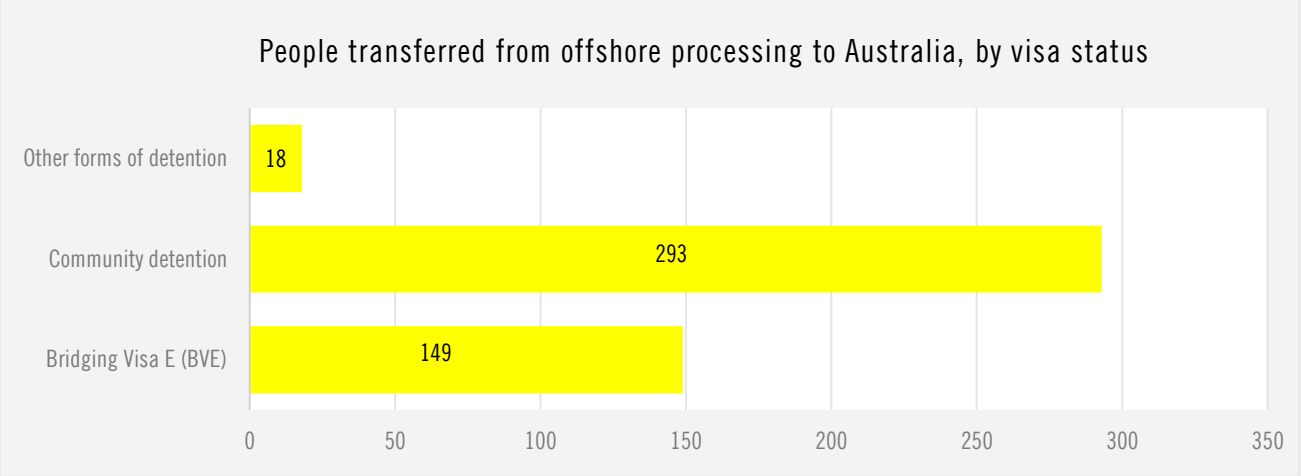
<https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs>, 121.

[128] They include verification of documents, obtaining necessary medical checks or providing biometrical data.

[129] Joshua Robertson and agencies, 'Coalition to cut income support for 100 asylum seekers in Australia' *The Guardian* (27 August 2017) <http://www.theguardian.com/australia-news/2017/aug/27/coalition-to-cut-income-support-up-to-100-asylum-seekers-in-australia-report>. While the initial reports indicated that around 100 would have be put on these bridging visas, later Senate estimates confirmed that 62 were cut off: Senator Stirling Griff, Answer to Question on Notice AE18/249 (26 February 2018) <https://www.aph.gov.au/api/qon/downloadestimatesquestions/EstimatesQuestion-CommitteeId6-EstimatesRoundId3-PortfolioId20-QuestionNumber162>.

[130] Estimates Hearing of Department of Home Affairs Portfolio (21 May 2018) <http://parlinfo.aph.gov.au/parlInfo/download/committees/estimate/0490c3ad-512d-453c-8526-3dff9705b43c/toc_pdf/Legal%20and%20Constitutional%20Affairs%20Legislation%20Committee_2018_05_21_6144.pdf;fileType=application%2Fpdf#search=%22committees/estimate/0490c3ad-512d-453c-8526-3dff9705b43c/0000%22>, 88–89.

Figure 5: Status of people transferred from offshore processing, 21 May 2018



Source: Estimates Hearing of Department of Home Affairs Portfolio (21 May 2018) <http://parlinfo.aph.gov.au/parlInfo/download/committees/estimate/0490c3ad-512d-453c-8526-3dff9705b43c/toc_pdf/Legal%20and%20Constitutional%20Affairs%20Legislation%20Committee_2018_05_21_6144.pdf;fileType=application%2Fpdf#search=%22committees/estimate/0490c3ad-512d-453c-8526-3dff9705b43c/0000%22>.

As a result, these people have been put at grave risk of destitution. Although the Government has given them visas that allow them to work, it is unrealistic to expect that people who have been in prolonged detention on Nauru or Manus Island and have been transferred for complex medical needs are in any position to find work.

PNG

As of 21 May 2018, only 36 people are living in the PNG community.[131] In October 2015, the PNG Government adopted a National Refugee Policy. [132] This states that the Government will ensure recognised refugees can work without a permit and start a business, have proper refugee visas and become citizens without needing to pay the citizenship application fee. UNHCR expressed its concerns that the policy also states that refugees should not receive support in a way that is perceived as special treatment (which ignores their inherent disadvantage), and that they can only sponsor their families once they have successfully established themselves and become self-sufficient.

The real challenge, however, has been that the Policy has not been reflected in practice.[133] In effect,

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[131] Senator Kim Carr, Answer to Question on Notice BE18/246 (5 July 2018) <https://www.aph.gov.au/api/qon/downloadestimatesquestions/EstimatesQuestion-CommitteeId6-EstimatesRoundId3-PortfolioId20-QuestionNumber94>.

[132] Minister for Immigration and Border Protection, *PNG Delivers on Refugee Settlement* (23 October 2015) <https://minister.homeaffairs.gov.au/peterdutton/2015/Pages/PNG-delivers-on-refugee-settlement.aspx>.

[133] PNG National Government, *PNG National Refugee Policy*

life in PNG is a life in precarious limbo, rather than resettlement. The two refugees who tried to resettle in early 2016 both lost their jobs and became homeless.[134] Loghman Sawari, the first of these, reported labour exploitation and was arrested trying to scale the fence to get back into the RPC.[135]

Two years on, Amnesty International's research shows that there has been no real improvement. Refugees have faced violence and discrimination in the community. As discussed earlier, there are fears for their safety and a lack of investigation and accountability when crimes are committed against them.

Those who have tried have struggled to find work. When they did, they were exploited, faced government interference with job opportunities, and lost their work permits. They received little support for meaningful integration.[136]

Many are left in limbo because they do not have a regular status or work permits. They do not have access to travel documents, denying them the chance to visit their loved ones overseas. They also expressed concerns about their safety and did not know who was responsible for essential health care. One man told Amnesty International that he had severe pain in his left hand side and was told he needed an x-ray that would cost AUD 125. He took the invoice to PNG Immigration who forwarded it to ABF. After a month and a half, he had received no news and did not get the x-ray.[137]

These concerns were echoed by the refugees who recently spoke to RCOA in October 2018. When they get a job, they lose their weekly allowance and have to find private housing but cannot afford even a small studio, as a large portion of their salary is taken by the job agency contracted by the Australian Government. They have to pay for the cost of their health care and, if they lose their jobs, they receive no support.

<http://www.immigration.gov.pg/images/PNG_National_Refugee_Policy_FINAL_ENDORSED_BY_CABINET.pdf>.

[134] Eric Tlozek, 'Refugee tries to return to detention on Manus Island after resettlement in Lae' *ABC Premium News* (31 March 2016) <https://search.proquest.com/docview/1776712776?accountid=12528>.

[135] Michael Gordon, 'Desperate refugees arrested trying to return to Manus Island centre' *The Sydney Morning Herald* (22 April 2016) <https://www.smh.com.au/politics/federal/desperate-refugees-arrested-trying-to-return-to-manus-island-centre-20160422-gocyg1.html>.

[136] Amnesty International, *Punishment Not Protection - Australia's Treatment of Refugees and Asylum Seekers in Papua New Guinea* (ASA 34/7781/2018, February 2018) <https://www.amnesty.org/en/documents/document/?indexNumber=ASA34%2f7781%2f2018&language=en>, 20–22.

[137] Amnesty International, *Punishment Not Protection - Australia's Treatment of Refugees and Asylum Seekers in Papua New Guinea* (ASA 34/7781/2018, February 2018) <https://www.amnesty.org/en/documents/document/?indexNumber=ASA34%2f7781%2f2018&language=en>, 20.

FAILING REFUGEES

The prospects of the 131 people who have been determined by PNG not to be refugees is even bleaker,[138] as only recognised refugees are offered resettlement in third countries or in PNG itself (although being recognised as a refugee under PNG law hasn't appeared to have had much impact on the assessment of claims by the US).

Yet it is far from clear that these people are not really refugees. The refugee determination process lacks many procedural safeguards, such as the right to choose one's lawyer and the right to information needed to ensure an independent and fair decision-making. UNHCR has also continued to voice concerns that people may not have been able to engage in the process for valid reasons, meaning that any deportations prior to a thorough, appropriate review run a very real risk of returning people to danger.[139]

Unlike in the first regime of offshore processing known as the 'Pacific Solution', this time the PNG government was responsible for determining whether people were refugees, although the process was set up and heavily supported by the Australian Government. When those arrangements were made, however, there was little in PNG law to govern the process of determining those claims (known as refugee status determination, or RSD).

The initial attempt to clarify in law the definition of refugees was found by UNHCR to be inconsistent in several respects with PNG's commitments under the Refugee Convention and other human rights treaties. UNHCR also found significant inadequacies in the operation of those processes in several reports in 2013,[140] but it has not subsequently reported on the process.[141]

It was not until 2014 that refugee processing really began, with the first initial assessment made in April 2014. The first interviews were conducted by Australian immigration officers on behalf of PNG immigration (Immigration Citizenship and Service Authority, ICSA), until the ICSA officers were

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[138] Estimates Hearing of Home Affairs Portfolio (22 October 2018) <https://parlinfo.aph.gov.au/parlInfo/download/committees/estimate/c9057e7c-a164-4ec6-b736-50bf92e1d970/toc_pdf/Legal%20and%20Constitutional%20Affairs%20Legislation%20Committee_2018_10_22_6688.pdf;fileType=application%2Fpdf#search=%22committees/estimate/c9057e7c-a164-4ec6-b736-50bf92e1d970/0000%22>, 95.

[139] Michael Koziol and Michael Gordon, 'UN alarmed at reports of forced deportations of Manus asylum seekers' *The Sydney Morning Herald* (9 February 2017) <https://www.smh.com.au/politics/federal/un-alarmed-at-reports-of-forced-deportations-of-manus-asylum-seekers-20170209-gu97vp.html>.

[140] Madeline Gleeson, *Offshore Processing: Refugee Status Determination for Asylum Seekers on Nauru* (Factsheet, Andrew & Renata Kaldor Centre for International Law, 1 June 2015) <http://www.kaldorcentre.unsw.edu.au/publication/offshore-processing-refugee-status-determination-asylum-seekers-nauru>.

[141] There was an amendment in 2014 to the regulation that contains the definition of refugee, although the procedural elements appear to be governed by policy: PNG Immigration & Citizenship Service Authority, *Papua New Guinea Refugee Protection Process* <https://immigration.gov.pg/images/documents/refugee_fact_sheets/Fact%20Sheet%20-%20RSD.pdf>.

trained. Many people seeking asylum were confused as to why they were being interviewed by someone from Australian immigration but being told they would be assessed under PNG law. There were also issues with the availability of interpreters (for example, the Bangladeshis preferred Bangla interpreters who are ethnic Bangladeshis, rather than Rohingyas who lived in Bangladesh).

For different reasons, around 60 people in PNG did not engage with the process of applying for protection.[142] Some did not trust the system. Others were afraid they would be resettled in PNG if they were found to be a refugee. Some said they sought protection from Australia, not PNG, and so they should be processed and assessed in Australia. Those who did not participate were presumably assessed on paper, based on their interviews on Christmas Island before they were transferred to Manus Island, or other available information. Some were nevertheless granted refugee status, but around 45 of those who did not engage were refused refugee status. [143]

The RSD process in PNG is complex and opaque. There is an initial assessment issued by a Protection Officer (which is legally only a recommendation to the PNG Minister for Foreign Affairs and Immigration). This is followed (sometimes several months later) by a Minister's Final Determination signed by the Minister. There is a non-transparent review process with a Refugee Assessment Review Panel, with members from PNG and Australia.[144] Contracted providers assisted people with their claims and during the review process. However, unlike in Australia, there is no access to judicial review to ensure the law was properly applied. This undermines people's right to a fair asylum process.

For those who have not been granted refugee status after a review, PNG officials conducted a Deportation Risk Assessment (DRA) to determine if they could be deported. Some people chose not to participate in the DRA process. However, if it was found that it was not safe to return them after a DRA, those people were left in limbo as they are still considered not to be refugees. According to Amnesty, around 40 people were reported to have been in this situation in February 2018.[145] These people live in continual anxiety:

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[142] Ben Doherty and Helen Davidson, 'Nearly 50 Manus Island detainees told they have no claim to refugee status' *The Guardian* (20 April 2016) <http://www.theguardian.com/australia-news/2016/apr/20/nearly-50-manus-island-detainees-told-they-have-no-claim-to-refugee-status>.

[143] Ben Doherty and Helen Davidson, 'Nearly 50 Manus Island detainees told they have no claim to refugee status' *The Guardian* (20 April 2016) <http://www.theguardian.com/australia-news/2016/apr/20/nearly-50-manus-island-detainees-told-they-have-no-claim-to-refugee-status>. UNHCR has continued to call for a review of these cases: Eric Tlozek, ''Negative status' asylum seekers on Manus Island left hanging in legal limbo, unable to leave or stay' *ABC News* (7 March 2018) <https://www.abc.net.au/news/2018-03-07/asylum-seekers-on-manus-island-left-hanging-in-limbo/9521972>.

[144] There is little public information about this process and the constitution of these panels, other than that the PNG government says it is an "independent panel" constituted by "eminent Papua New Guinean and international lawyers", although it is not clear that in practice all are necessarily lawyers.

[145] Amnesty International, *Punishment Not Protection - Australia's Treatment of Refugees and Asylum Seekers in Papua New Guinea* (ASA 34/7781/2018, February 2018) <https://www.amnesty.org/en/documents/document/?indexNumber=ASA34%2f7781%2f2018&language=en>, 23–25.

> *Today I went for interview. There were two officers and were insisting [that I should] voluntary[il]y return to [my] homeland. If I [do,] they will give me some money (I don't know how much) in US dollars. If I refuse to go, they will forcibly deport me and do not give any supports. They said they only take [those] who has been found to be refugee and not negatives [people found not to be refugees]. In the end of the day, they will deport every negatives. And I continually convince them and indicate that I cannot be returned as my life is in danger, but they don't listen to me.*
>
> *- Person seeking asylum, 1 February 2017.*

For the people who have not been recognised as refugees, there is no way out at all, other than the option of returning to danger.

RETURNING TO DANGER

The lack of viable resettlement options for those on Manus Island, and the increasingly difficult conditions, have meant that many people have been coerced to return 'voluntarily' to their country of origin, often under intense pressure by officials. By May 2018, 646 people (or 42% of those sent to Manus) had been 'voluntarily' removed. The pressure to 'voluntarily' return is so intense that Rohingya people were reported to be deciding to return to Myanmar, despite the well-known crimes against humanity which have led many thousands of Rohingya to flee to neighbouring countries.[146] The numbers 'voluntarily' returning have increased significantly in the past year, with 99 people returning between April 2017 and May 2018.

People are also being deported by force, with at least 20 people having now been deported. In 2018, at least 12 people have been removed from Manus Island (while no one from Nauru was deported by force).[147] It is not entirely clear where they have been sent (other than through occasional media reports) and, therefore, whether they have been sent back to a real risk of danger.[148] However,

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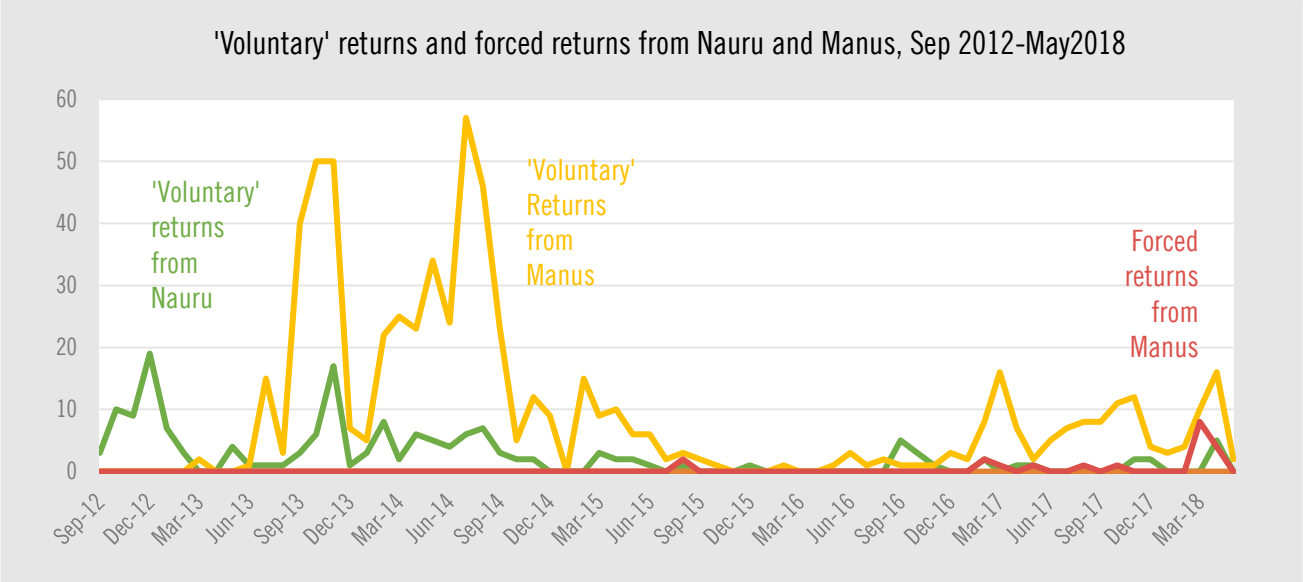
[146] Oliver Holmes and Ben Doherty, 'Australia offers to pay Rohingya refugees to return to Myanmar' *The Guardian* (18 September 2017) <http://www.theguardian.com/world/2017/sep/19/australia-offers-pay-rohingya-refugees-return-myanmar>.

[147] Senator Kim Carr, Answer to Question on Notice BE18/244 (5 July 2018) <https://www.aph.gov.au/Parliamentary_Business/Senate_Estimates#qon>; Senator Kim Carr, Answer to Question on Notice BE18/246 (5 July 2018) <https://www.aph.gov.au/api/qon/downloadestimatesquestions/EstimatesQuestion-CommitteeId6-EstimatesRoundId3-PortfolioId20-QuestionNumber94>.

[148] There have been media reports of deportations involving Nepal, Lebanon and Bangladesh, and other arrests: see, eg, Farid Farid, 'Asylum seeker deported from Manus fears for his life in Lebanon' *The Sydney Morning Herald* <https://www.smh.com.au/world/asylum-seeker-deported-from-manus-fears-for-his-life-in-lebanon-20170321-gv2lpx.html>; Eric Tlozek, 'Nepalese asylum seeker 'in hiding' after shock deportation from PNG' *ABC News* (3 March 2017) <https://www.abc.net.au/news/2017-03-03/nepalese-asylum-seeker-fears-for-life-after-deportation-manus/8322922>; Eric Tlozek, 'Manus Island's 'negative' status asylum seekers face indefinite detention in PNG' *ABC News* (15 September 2017) <http://www.abc.net.au/news/2017-09-15/asylum-seekers-on-manus-face-indefinite-stay-in-png/8947356>.

without a fair opportunity to put their case and a credible process, and in the circumstances of any deportations do raise a real risk of both Australia and PNG breaching their international legal obligations.[149]

Figure 6: 'Voluntary' and forced returns from Nauru and PNG, as at 21 May 2018



Source: Senator Kim Carr, Answer to Question on Notice BE18/244 (5 July 2018) <https://www.aph.gov.au/Parliamentary_Business/Senate_Estimates#qon>; Senator Kim Carr, Answer to Question on Notice BE18/246 (5 July 2018) <https://www.aph.gov.au/api/qon/downloadestimatesquestions/EstimatesQuestion-CommitteeId6-EstimatesRoundId3-PortfolioId20-QuestionNumber94>.

There is no monitoring of people once they have returned, so for the most part we do not know what has happened to them and whether they are safe. However, thanks to the ABC's *Lateline*, we do know what happened to Eyad, a 29-year-old man who returned to Syria in August 2015 to be with his wife and two-year-old daughter, despite the civil war.

According to Eyad, he was picked up by intelligence officers and jailed and tortured for 20 days, before he returned to his home village in one of the most dangerous parts of Syria. In September 2015, a shell dropped four metres from Eyad, injuring him and killing his father.[150]

[149] Amnesty International, 'Manus Island: deportations are refoulement risk without fair, credible process established' *Amnesty International Australia* <https://www.amnesty.org.au/manus-island-deportations-are-refoulement-risk-without-fair-credible-process-established/>.

[150] Ginny Stein, 'Asylum seeker Government sent back to Syria injured in shelling, father killed' *ABC News* (20 October 2015) <https://www.abc.net.au/news/2015-10-20/syrian-asylum-seeker-repatriated-from-manus-injured-in-blast/6869974>.

WHAT NOW?

Two months ago, the Refugee Council of Australia and the Asylum Seeker Resource Centre reported on Australia's man-made crisis in Nauru. That report observed that this was a 'crisis' that had an easy answer. We say again what we said there:

> *These people can simply be brought to Australia, and should have been brought here years ago. This is entirely within Australia's power to achieve. The number of people involved is tiny. It would be an enormous cost saving to the government, and help to restore our credibility in the region and internationally. It would drain a poison that has been slowly engulfing our politics, our identity and our democracy.*

Since that report, we have seen the tide of public opinion start to turn, as people finally wake up to the damage that is being done in our name. We have seen doctors, teachers, and academics speaking up, as never before. We have seen government and independent MPs start to demand that something be done in the name of humanity. We have seen thousands of people in the streets, and online, demand that this suffering must end.

We hope that, by the time this report is published, the children will be off Nauru, being given proper care, and with lives no longer in limbo. But we must not forget the men in PNG, both brave and broken, whose prospects for the future are bleaker than those on Nauru, and for whom we in Australia continue to be responsible.

Our key recommendations

The Australian Government should end offshore processing immediately, and bring them to Australia, or a safe third country.

While this is being implemented, the Australian Government should ensure the right to the highest attainable standard of health, including access to adequate mental health care, and where medical treatment is required in Australia, access to timely transfers based on medical needs. It should end immigration detention practices (including open forms of detention) and other discriminatory limitations on their right.

The Papua New Guinean Government should independently, promptly, effectively and impartially investigate all complaints of violence or other crimes committed against refugees and people seeking asylum and, where there is sufficient evidence, ensure that perpetrators are held accountable through a court of law, without recourse to the death penalty.

Both governments should 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. They should accept and co-operate fully with third countries willing to provide safe settlement of refugees rapidly, including but not limited to, the government of New Zealand. They should ensure that independent agencies, including the United Nations, international and national authorities and non-governmental organisations, have full and free access to the centres to monitor the conditions and provide humanitarian assistance where necessary.

APPENDICES

Table 1: some of the recent incidents in Manus Island and Port Moresby, targeting refugees and people seeking asylum

Source: Compiled from media reports.

Date	Event
October 2018	An Iranian refugee who was living in the community in Manus Island was attacked and suffered serious injuries to his head and eyes.
April 2018	An Afghan refugee was stabbed repeatedly with a screwdriver in a robbery in Manus Island's main town of Lorengau.
December 2017	Two intoxicated men approached West Lorengau Haus and made death threats. One was armed with a long metal implement.
December 2017	A Bangladeshi refugee was hit in the face causing injuries and had his money and phone stolen. This was the second time he was attacked on Manus Island. A few months ago he was attacked with a machete and had his arm sliced open requiring surgery.
July 2017	Three men were attacked in Manus Island in separate robberies: a Sudanese refugee had his leg cut with a bush knife when men broke into a guesthouse he was staying, an Iranian man had his wrist cut when he was attacked with a machete and robbed in the street, and an Afghan refugee was attacked as he walked on the street near the hospital and had his wallet and phone stolen.
November 2016	An Iranian refugee was assaulted by a gang of youth on the streets of Manus Island. He was punched and kicked and had his money stolen.
October 2016	A Somali refugee was confronted by a group of young men and hit with a rock as he walked a friend to the bus stop near the East Lorengau Transit Centre.
August 2016	Two Afghan refugees were surrounded by a group of men as they walked to a bus stop. They were robbed and hit with an iron bar on the body, arms and head.
July 2016	Two people who were in Port Moresby for medical treatment were threatened at gun point near a motel they were staying at.

Table 2: The events in the lead up and aftermath of forcible removal of people from Manus Island RPC

Sources: Compiled from media and UNHCR reports.

Date	Event
Few months prior to October 2017	Facilities and services in the Manus Island RPC were gradually removed. This included cutting power to certain parts of the centre, removing recreational facilities and reducing bus services to town.
Mid October 2017	People received three weeks' worth of medication. They were told they needed to move to other two centres to access additional medication or receive health care.
29 October 2017	People received two days' worth of food and water. They were told they were expected to leave to other centres afterwards.

Date	Event
30 October 2017	UNHCR reported that the construction of West Lorengau Haus was incomplete. Containers set to accommodate people were surrounded by mud and did not have electrical or water connections. Heavy rain also hampered the construction. Tension within the local community started to rise.
31 October 2017	A large number of Australian service providers departed the centre in the early hours.
1 November 2017	Water and power supplies were cut off in the early morning. About 600 men remained at the centre.
2 November 2017	With food and water running out, refugees and people seeking asylum resorted to storing water in garbage bins and built makeshift systems to catch the rain water.
3 November 2017	The PNG military prevented a group of local people who wanted to assist, from delivering food to the men.
4 November 2017	A refugee collapsed after reporting chest pain inside the RPC. Refugees contacted the emergency phone numbers provided as well as police and navy but did not get a response. Four and a half hours later PNG Immigration took the man to the local hospital. When he arrived there, the only ECG machine was broken.
10 November 2017	Police and Immigration officials entered the RPC, destroyed sun-shelters, smashed taps on large water tanks and filled in water wells the men had dug with dirt and rubbish.
18 November 2017	The Australian Medical Association called on Australian Government to allow independent doctors and other health experts access to people inside the RPC (who were about 400 people at that time). In the meantime, there was growing fear about an outbreak of illnesses, like cholera, with potentially deadly consequences.
23 November 2017	50 PNG police (including paramilitary) and immigration officers entered the centre and gave the men an hour to move out. The officers shouted at people, demanded they hand over their phones and destroyed their property. Two men collapsed, one had a history of heart problems and the other one was epileptic. Behrouz Boochani who had been providing regular updates was arrested and detained for a few hours by the police. They eventually removed 50 people.
24 November 2017	The PNG mobile squad officers forcibly removed all remaining people from the RPC, beating them with metal batons and forcing them on buses. Footage supplied by refugees shows officers threatening and intimidating the refugees, including throwing rocks at the fences behind which they were sheltering. Up to 60 men were left without a place to stay, as the centres were either not ready or over capacity. Essential services and food and water remained unavailable or insufficient for weeks. At times, running water and electricity were only available for one hour per day.
26 November 2017	Médecins Sans Frontières (MSF) revealed that they had been denied access to refugees and people seeking asylum despite being given approval by PNG government earlier. They had been trying to meet with the men and assess their health conditions since 22 November 2017.
29 November 2017	Local landowners blocked access to ELTC, demanding to be given the case management contract for the Lorengau centres. The barricade prevented medical staff from accessing patients for a number of hours. Some of the case management staff were told to leave for their own safety. In the following months, a number of other protests by local landowners were held.

Table 3: Health care provided to those sent to PNG from August 2013 until today

Source: Amnesty International

Date	Event
2 August 2013	First refugees arrived on Manus Island.
11–16 Nov 2013	Amnesty International visited Manus Island, including the initial IHMS clinic at the centre and expressed concern that the medical facility within the camp was unable to cope with the growing demand for health and mental health services.
2014–Oct 2017	From 2014 until October 2017, refugees were serviced by a larger and well equipped IHMS clinic, including dispensary, at the RPC. Torture and trauma counselling services were provided to refugees by Overseas Services to Survivors of Torture and Trauma (OSSTT), who continue to provide these services to refugees and asylum seekers on Nauru. Refugees at the ELTC were serviced by a medical clinic operated by IHMS on one day a week
Oct 2017	In early October 2017, access to medical care changed dramatically for the hundreds of refugees and asylum seekers on Manus Island. They were given three week's supply of medication, and torture and trauma counselling services ended. Refugees were told to move to newer facilities and access the refugee medical clinic at the ELTC or the local hospital.
31 Oct 2017 – 24 Nov 2017	On 31 October 2017, Australian government officials and contractors withdrew from the RPC. As a result, the men were not provided with food, water or medical care at the site for three weeks. Refugees were forcibly transferred to the newer centres between 23 and 24 November 2017 by PNG Immigration officials and police. On 1 November 2017, Provincial Police Commander David Yapu told Amnesty International that the health clinic at the ELTC was not yet 'up to standard'.
Dec 2017	The medical clinic at ELTC, run by IHMS, operates five and a half days a week, with after-hours and critical care expected to be provided by the Lorengau General Hospital, a public hospital on Manus Island. There are no health clinics at Hillside Haus and West Lorengau Haus, the other two sites accommodating refugees on Manus Island
30 Apr 2018	IHMS handed over medical care to a new local service provider, PIH, contracted by the Australian government. Details of the contractual arrangements with PIH were not publicly available at the time of this report.

IHMS Services from October 2017 to 30 April 2018 (when IHMS handed over the medical care to PIH)

This information was provided by the Australian Government on an answer to question on notice.

MANUS ISLAND

A general practitioner-led clinic at East Lorengau Transit Centre (ELTC) operating during business hours on weekdays and on Saturday mornings, providing primary and mental health services.

A 24-hour emergency medical evacuation service (*note:* the coroner in Hamid Khazeai's inquest noted that this process needed to be clearer for all parties involved).

After-hours care was provided by Lorengau General Hospital.

People who required health care and specialist services unavailable at the ELTC clinic were referred to Lorengau General Hospital or transferred to Port Moresby.

PORT MORESBY

People who were transferred to Port Moresby for medical treatment were supported by a medical officer and nurse liaison service provided by IHMS during business hours Monday to Saturday. The liaison service was tasked to manage and coordinate the appointments with specialists in Port Moresby.

The services were supported by a medical officer, a counsellor, liaison officers and administrative staff.[151]

Table 4: Current health care services on Manus Island, compared with previous staffing levels

This information was provided by the Australian Government on an answer to question on notice.

	IHMS (31 Jan 2018)[152]	**Current**[153]		**Change**	
	PNG	ELRTC	Port Moresby	Raw	%
Primary Health Care	9	10	5	+6	+67%
Mental Health Care	8	3	1	-4	-50%
Management/Administrative	13	10	5	+2	+15%
Other (including specialty services)	2	2	0	0	0%
TOTAL	**32**	**25**	**11**		

[151] Senator Stirling Griff, Answer to Question on Notice BE18/209 (7 May 2018) <https://www.aph.gov.au/Parliamentary_Business/Senate_Estimates#qon>.

[152] Senator Kim Carr, Answer to Question on Notice AE18/146 (4 October 2018) <https://www.aph.gov.au/api/qon/downloadestimatesquestions/EstimatesQuestion-CommitteeId6-EstimatesRoundId2-PortfolioId20-QuestionNumber141>.

[153] Senator Stirling Griff, Answer to Question on Notice BE18/208 (12 June 2018) <https://www.aph.gov.au/api/qon/downloadestimatesquestions/EstimatesQuestion-CommitteeId6-EstimatesRoundId3-PortfolioId20-QuestionNumber60>.

UNTIL WHEN?

THE FORGOTTEN MEN ON MANUS ISLAND

November 2018

Back cover photo: A downtrodden toilet at Lorengau Hospital on Manus Island, Papua New Guinea, October 2017. © AI

Portrait spread on page 10 & 11

- Aziz © AI
- Behrouz © AI
- Imran © HRLC
- Kaaveh © Perth Voice Interactive

Refugee Council of Australia

AMNESTY INTERNATIONAL