



# General Assembly

Distr.: General  
28 August 2013

English only

---

## Human Rights Council

Twenty-fourth session

Agenda item 4

Human rights situations that require the Council's attention

### **Written statement\* submitted by the Human Rights Law Centre, a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[22 August 2013]

---

\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

## **The human rights situation of concern in Australia**

This statement is made by the Human Rights Law Centre and outlines our concerns about Australia's unlawful and fundamentally misguided approach to asylum seekers arriving by boat.

On 19 July 2013, Australia announced that from now on any asylum seeker arriving by boat will be removed to Papua New Guinea and be detained and processed on Manus Island, PNG. If they are found to be refugees they will be resettled in PNG. Some may also be transferred, detained and potentially resettled on Nauru. None will be processed or resettled in Australia.

The policy is a deterrence measure aimed at stemming the flow of boat arrivals. It is cruel by design, subjecting those who arrive to harsh treatment in the hope it will warn off others thinking of coming.

The policy was announced only a week after the UNHCR reported that Australia's transfer of asylum seekers to Manus Island under its existing offshore processing arrangements violated the human rights of transferees. The UNHCR expressed concerns as to the capacity of PNG to fairly and accurately assess protection claims. Its report also found that the mandatory, indefinite and non-reviewable detention of asylum seekers on Manus Island violated the protection against arbitrary detention, that conditions in the Manus Island detention centre fell short of international human rights standards and that all asylum seekers transferred to PNG were now showing signs of anxiety and depression.

Despite the UNHCR's findings Australia continues to send asylum seekers to places where they will be subject to human rights violations and where they are at risk of being wrongly returned to the place from which they've fled.

The Australian Government has explicitly ruled out exceptions to the policy. Gay asylum seekers will be transferred, notwithstanding that homosexual conduct is criminalised in PNG. Unaccompanied minors will be transferred, even though they may have family already in Australia. Pregnant women will be transferred, despite acute health risks to them and their unborn children and regardless of whether the father of their child is already in Australia.

A cruel policy will be made crueler by its arbitrariness and inflexibility.

Australia maintains that it is acting in accordance with international law. It is not. Australia is violating the human rights of people seeking its protection. It is penalising asylum seekers based on their mode of arrival contrary to obligations under the Refugee Convention. It is condemning desperate people to arbitrary detention in remote locations, contrary to obligations under several UN human rights treaties to which Australia is a party.

Australia is outsourcing its responsibility for people seeking its protection to smaller developing nations with significant domestic challenges. Global refugee protection requires burden sharing between States, but this is simply burden shifting. Australia is setting an alarming global precedent that must be condemned.

Australia is a member of the UN Security Council and a country that holds itself out to be a principled advocate of human rights for all. Accordingly, we call on the Human Rights Council and member States to remind Australia of its international obligations under the Refugee Convention and UN human rights treaties and hold Australia to account for violations.

Australia must begin responding to the challenges posed by maritime arrivals in a manner that is lawful and humane. Instead of acting unilaterally or bilaterally to punish and deter boat arrivals, Australia must focus on regional efforts to ensure that desperate people in need of protection have safe, viable and orderly pathways through which they can access it.

It is a tragedy when asylum seekers drown en route to Australia. Australia must realise, however, that violating the human rights of survivors is not a humane, lawful or effective policy response.

---