



www.libertyvictoria.org.au

Victorian Council for Civil Liberties Inc
Reg No : A0026497L

GPO Box 3161
Melbourne, VIC 3001
t 03 9670 6422
info@libertyvictoria.org.au

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8 April 2016

Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

legcon.sen@aph.gov.au

To the Senate Legal and Constitutional Affairs Committee

Inquiry into the Conditions and Treatment of Asylum Seekers and Refugees at the Regional Processing Centres in the Republic of Nauru and Papua New Guinea

Liberty Victoria is one of Australia's leading human rights and civil liberties organisations. It is concerned with the protection and promotion of civil liberties throughout Australia. As such, Liberty is actively involved in the development and revision of Australia's laws and systems of government. Further information on our activities may be found at www.libertyvictoria.org.au.

Liberty Victoria welcomes the opportunity to provide this submission to the Senate Legal and Constitutional Affairs Committee Inquiry into the Conditions and Treatment of Asylum Seekers and Refugees at the Regional Processing Centres in the Republic of Nauru and Papua New Guinea (**this Inquiry**). Thank you for the extension of time granted to make this submission.

Of particular concern to Liberty Victoria is term of reference 'd' to this Inquiry, which requests responses commenting on the *"transparency and accountability mechanisms that apply to the regional processing centres in the Republic of Nauru and Papua New Guinea."* Indeed, the offshore detention program supported by successive Australian governments has been characterised by an abject lack of any accountability or transparency measures being put in place. Rather, independent commissioners¹ and journalists² have been refused access and laws have been introduced which stifle others from speaking about their direct experiences in offshore detention Regional Processing Centres (**RPCs**).³

Pertinently, transparency issues have already been raised as a formal recommendation in the Final Report, provided in August last year, which the committee noted it recommend *"that Australia increase the transparency of conditions and operations at the Regional Processing Centre, including by ensuring the*

¹ <http://www.smh.com.au/federal-politics/political-news/human-rights-commission-boss-gillian-triggs-blocked-from-visiting-nauru-20140203-31xg6.html>

² <http://www.amnesty.org.au/news/comments/38209/>

³ *Australian Border Force Act (Cth)*

*provision of reasonable access, in negotiation with the Government of Nauru as necessary, by the Australian Human Rights Commission and by the media”.*⁴

The extensive recommendations made in the Final Report have now been published for close to eight months, with no substantive response or changes to the ‘*out of sight, out of mind*’ approach of the offshore detention policy employed by the Australian government – which clearly seeks to avoid any meaningful scrutiny over operations. Accountability is a critical aspect of any government program or policy, but without access to any independent, third party information, Liberty Victoria’s ability to contribute to this issue is extremely limited.

Further, Liberty Victoria draws attention to the substantial number of previous submissions⁵ regarding the serious impact offshore detention has on asylum seekers being held in Nauru and Manus Island RPCs and calls to cease the detention of asylum seekers currently detained at RPCs under conditions where they remain vulnerable to abuse.

Liberty Victoria has consistently raised concerns about the deleterious effect that offshore detention has on the human rights and well-being of asylum seekers, and of the Australian government’s outsourcing and obfuscation of its responsibilities under both domestic and international law.⁶

To this end, Liberty Victoria refers to and wishes to endorse a previous joint submission made by Unicef Australia and the Human Rights Law Centre (HRLC) to the Senate Select Committee titled ‘*Recent Allegations relating to the Conditions and Circumstances at Regional Processing Centre in Nauru*’, dated 13 May 2015,⁷ and the HRLC Submission “*Inquiry into Manus incident*”, dated 2 May 2015.⁸

The PNG and Nauru centres should be closed and the asylum seekers within brought to the Australian mainland for processing according to law.

Should you wish to discuss any aspect of this submission further please contact Gillian Garner through the Liberty Victoria office on 9670 6422 or info@libertyvictoria.org.au. This is a public submission and is not confidential.

Yours sincerely



George A Georgiou SC
President
Liberty Victoria

⁴ [http://www.aph.gov.au/Parliamentary Business/Committees/Senate/Regional processing Nauru/Regional processing Nauru/Final Report](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Regional_processing_Nauru/Regional_processing_Nauru/Final_Report), section 5.43.

⁵ See submissions to the *Inquiry into the responsibilities of the Commonwealth Government in connection with the management and operation of the Regional Processing Centre in Nauru* from the Asylum Seeker Resource Centre (ASRC), the Castan Centre for Human Rights Law, the Australian Human Rights Commission.

⁶ See ‘*Statement on Report of Expert Panel on Asylum Seekers and Government Response*’, 13 August 2012 (<https://libertyvictoria.org.au/node/408>); ‘*Serious concerns about the PNG solution*’, 24 July 2013 (<https://libertyvictoria.org.au/node/520>), ‘*Time to end the cruelty at Manus Island*’, 18 February 2014 (<https://libertyvictoria.org.au/node/405>). In addition, Liberty Victoria was a signatory to the 24 April 2015 Joint Statement with the Refugee Council calling for a Moratorium on offshore transfers (<http://www.refugeecouncil.org.au/media/refugee-council-calls-for-immediate-moratorium-of-offshore-transfers/>) (<https://libertyvictoria.org.au/node/520>)

⁷ See [3.1] – [3.2(ii)].a

⁸ See [5.1] – [5.3].