



Briefing Paper for those attending the Pacific Island Forum to be held in Nauru from 1-9 September 2018:

- Pacific Island Forum Heads of State
- accompanying personnel, and
- media representatives

Regarding:

The Australian Government's Offshore Processing regime, which has resulted in refugees and asylum seekers being held indefinitely on Nauru and PNG since 2013.

The Australian Refugee Action Network calls on the governments of Nauru and PNG to:

- withdraw from the offshoring arrangements (set up to protect partisan political interests in Australia) which are destroying innocent people, and
- seek aid from Australia to support economic development which does not require either Nauru nor PNG to abuse the human rights of innocent people.

The Australian Refugee Action Network has over 70 member groups engaged in advocacy for refugee rights across Australia.

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KEY ISSUES

In 2013 the Australian Government re-activated arrangements with Nauru and PNG to prevent people trying to seek asylum in Australia from doing so. Australian government officials maintain control over the offshore facilities: They pay for them, control their operations and hire private contractors to run them.

Approximately 830 people (including 120 children) remain on Nauru, and around 780 men are held in PNG, mostly on Manus Island. While most of these people are no longer technically 'in detention' they have limited freedom of movement, and are not recognized as citizens in either Nauru or PNG. Some people are being resettled in the US, but it is understood that a large number will not be accepted for resettlement there.

From the very beginning there have been **serious human rights concerns about Australia's offshore arrangements:**

- People are denied the right to seek asylum in Australia. As a signatory to the UN Convention on Refugees Australia has an obligation to consider the claims of people seeking asylum.
- Severe mental and physical health issues for men, women and children held in conditions similar to concentration camps, with extremely harsh living conditions – in tents, on rocky surrounds and high heat and humidity
- 12 lives have been lost, and scores of people have required medical evacuation with life threatening conditions. Currently a number of children on Nauru are deeply depressed and have a condition known as 'resignation syndrome' from which they will die if their situation is not resolved in the near future. See: [Children on Nauru suffering Resignation Syndrome](#). [Resignation syndrome](#)
- Hundreds of people are suffering mental health problems as a result of their indefinite detention and the loss of all hope.
- The arrangement is illegal – in 2017 PNG ruled the detention of refugees unlawful.
- The arrangement is morally indefensible – the Australian government has been clear that the inhumane and degrading treatment of these people is deliberate and a central part of the policy designed to deter others from seeking protection in Australia
- Lack of transparency and accountability – the Australian Government has sought to limit the information available about the situation of the people being held on Nauru and in PNG, and has encouraged the restriction of visas to journalists.



NEWS REPORTS – UN HIGH COMMISSIONER CONDEMNS AUSTRALIA’S OFFSHORE ARRANGEMENTS:

Australia has received vigorous and repeated condemnation from international human rights groups including the United Nations High Commissioner for Refugees opposing the offshore regime.

<http://www.abc.net.au/news/2018-03-27/unhcr-says-nauru-refugees-mental-health-situation-shocking/9591846>

<https://www.sbs.com.au/news/very-very-shocking-un-official-slams-situation-on-nauru>

<https://www.theguardian.com/australia-news/2017/nov/10/australia-should-bring-manus-and-nauru-refugees-to-immediate-safety-un-says>

<https://www.theguardian.com/australia-news/2017/nov/04/un-attacks-australias-inhumane-refugee-processing-system>

<https://news.un.org/en/story/2018/04/1006501>

THERE HAVE BEEN MULTIPLE INQUIRIES AND REPORTS ON CONDITIONS ON NAURU AND MANUS ISLAND:

- November 2014 The Australian Human Rights Commission released their report, [The forgotten Children](#) based on a national Enquiry into children in immigration detention. This included 186 children on Nauru.

The evidence documented in this Report demonstrates unequivocally that prolonged detention of children leads to serious negative impacts on their mental and emotional health and development. It also noted numerous reported incidents of assaults, sexual assaults and self-harm involving children indicate the danger of the detention environment

- Feb 2015: [The Moss Report](#) – an internal Government report was released supporting the AHRC findings
- March 2015, [former UN Special Rapporteur Juan Méndez](#) concluded that Australia had “violated the right of the asylum seekers, including children, to be free from torture or cruel, inhuman or degrading treatment”.
- March 2016: [The Guardian Australia](#) published what became known as The [Nauru Files](#).. The files cover the period from May 2013 to October 2015 and detail assaults, sexual abuse, self-harm attempts and child abuse at the OPC.

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Children are vastly over-represented in the reports that include seven reports of sexual assault. 59 reports of assaults on children, 30 incidents of self harm involving children and 159 incidents of threatened self harm involving children.

- August 2016: over 100 doctors teachers, caseworkers managers and social workers [call for both Manus and Nauru to be shut down](#).
- October 2016 report by Amnesty International [Island of Despair](#): concluded that the Australian government's policy has been "explicitly designed to inflict incalculable damage on the hundreds of women, men and children on Nauru".

"Behind a fortress of secrecy, the Australian Government is isolating over a thousand people – adults and children – in a remote place which they cannot leave, where many in the local population do not want them, and the local police do not protect them, with the specific goal that these people should suffer. And suffer they have – it has been devastating and, in some cases, irreparable."

The report concluded that the conditions endured on Nauru actually amounted to a form of torture:

The conditions on Nauru – refugees' severe mental anguish, the intentional nature of the system, and the fact that the goal of offshore processing is to intimidate or coerce people to achieve a specific outcome – amounts to torture.

- In 2017 [a group of top human rights lawyers, lodged a 108-page brief with the prosecutor of the International Criminal Court \(ICC\)](#), urging her to investigate alleged crimes committed by Australian officials and the Australian government's private contractors. This brief alleges that Australian officials, over the course of successive governments, have knowingly enabled the commission of crimes against humanity. Their victims have been people whose only "crime" was to seek Australia's protection from persecution.
- March 2018 [SBS News](#) The Asia Pacific director for the UN High Commissioner for Refugees, Indrika Ratwatte, criticised Australia's immigration detention policies. Mr Ratwatte visited the Nauru detention centre, concluding that some people currently detained in the facility are worse off than the Rohingya in Bangladesh.
- To date in 2018 Australian judges defied the Federal Government *14 times* and evacuated children urgently from Nauru to Australia.³
- In August 2018 over 140 service, religious and advocacy organisations, many of them national, and over 70,000 individuals have to date joined the World Vision [#KidsOffNauru campaign](#). This campaign calls on Australia's Political Leaders, to free the 119 children trapped on Nauru by Universal Children's Day; to bring them to Australia and either offer resettlement in Australia or find another suitable country that welcomes them.



Background and Key facts

The refugees and asylum seekers currently on Nauru all attempted to come to Australia by boat to seek asylum. More than 1350 men women and children were sent from Australia to Nauru to between July 2013 and September 2014, and more than 1000 men were sent to PNG.

While the majority of people remain, a small number of people have returned to their countries of origin, a very small number have gone to Cambodia, and around 260 have been accepted by the USA in a special deal and 2 were accepted by Canada. We understand that people who are recognised as refugees in Nauru are permitted to stay there on a temporary basis for up to 10 years, but is it unclear whether there are viable options and economic opportunities available to them.

Nearly 300 people have been transferred to Australia to receive medical treatment for serious conditions, or to give birth at which point they are called 'transitory persons'. Shamefully, in many cases the Australian Government has resisted providing these people with specialist medical care until ordered to do so by the Federal Court. It is Government policy that all transitory persons must be sent back offshore as soon as medically possible, but legal action in Australia has prevented the Government from returning these people to Nauru and Manus Island. Many of these people are recognised as refugees, but Australia continues to deny them protection.

The most recent figures provided in May 2018 (source: Senate Estimates) indicated that there were 939 people left on Nauru, of which 821 were recognised as refugees (247 in the Regional Processing Centre, and 692 in other accommodation - details unknown). We understand that there are currently around 830 people (including 120 children) remaining on Nauru, and around 780 men remaining in PNG. Many of these people have been separated from family members for over 5 years, and they are trapped without hope.

Refugee assessments as of 31 Oct 2017 showed that more than 90% of these people were assessed to be refugees. (1,062 positive decisions, with only 154 negative decisions).

The Australian government has also repeatedly refused an offer by new Zealand to resettle refugees from Nauru and Manus Island as a means of ending shameful chapter in Australia's history.

It is clear that most people seeking asylum who are held on Nauru and in PNG should be granted protection by Australia.



Illegality of the arrangements

The Constitution of Nauru

According to the 1968 Constitution of Nauru, 'every person in Nauru is entitled to the fundamental rights and freedoms of the individual... whatever his [or her] race, place of origin, political opinions, colour, creed or sex' (article 3). Articles 3 to 13 set out the rights to:

- life, liberty and security of person;
- freedom from torture or treatment or punishment that is inhuman or degrading;
- the enjoyment of property;
- protection of the law;
- freedom of conscience and expression;
- freedom of peaceful assembly and association; and
- respect for private and family life.

Article 5(1) provides that 'no person shall be deprived of his [or her] personal liberty, except as authorised by law' for one of a specified list of purposes, including 'for the purpose of preventing his [or her] unlawful entry into Nauru, or for the purpose of effecting his [or her] expulsion, extradition or other lawful removal from Nauru'.

This is one of the main reasons the RPC was declared not to be a detention centre even though conditions are still inhumane and deny people the hope of a stable and secure future. Technically residents can move to and from the centre with ease. There are many reasons why these options are not taken up with great frequency.

Health Risks

Refugees and Asylum seekers on Nauru endure unnecessary delays and at times denial of medical care, even for life-threatening conditions. Many have dire mental health problems and suffer overwhelming despair—self-harm and suicide attempts are frequent. All face prolonged uncertainty about their future.

Some recent examples of the litany of extreme health neglect

- Feb 2018: Australian High Court ordered the Australian Government to bring a young girl detained on Nauru to Australia for urgent psychiatric treatment, amid warnings she may take her own life without intervention. The Federal Court advised that the girl, who arrived on Christmas Island with her family in 2013, has already tried to take her own life during her five years in detention.
- Feb 2018 The Australian government offered a 55-year-old Iranian woman detained on Nauru with a life-threatening heart condition [the chance be transferred overseas for medical treatment](#), without permitting her son to accompany her. A doctor determined the woman, Fatemeh, to be "at extremely high and imminent risk of having a catastrophic cardiac event such as heart attack, or sudden death due to



arrhythmias". Fatemeh reported that Australian Border Force officials made the offer conditional on her 17-year-old son staying behind. She said her son, who has a mental health condition, has no-one to stay with and is very dependent on her.

- March 2018: [The Guardian](#) - A 10-year-old boy detained on Nauru has made repeated attempts to kill himself. His mother has been concerned for his mental health since he was only 6 years old. Medical experts have declared that his mental condition is critical, with risks that his health will decline into chronic severe mental health problems and risk of suicide. Despite recommendations by medical experts in July 2017, the Department rejected the transfer later in December 2017. The High Court of Australia has ordered the Australian Government to move him Australia for acute psychological care, saying the boy would be at imminent risk of dying if left in the regional processing centre.
- Feb 2018: [The Conversation](#) - Overheating, contamination and mould in tents was documented to be 76 times the normal safe levels on Nauru, affecting 330 people including 36 children.

Cadmium poisoning

After a century of phosphate mining on Nauru, it is known that cadmium, a highly toxic heavy metal is present in high concentrations on Nauru. The detention facility is located in very close proximity to the old mining site. Families living near the mining site in un-ventilated tents, and children playing in the rock dust are obviously at the highest level of risk.

The health risks are extremely serious: irreversible kidney damage, lung damage, bone damage, cancer and possibly genotoxic effects in human cells exposed in utero.

A 2012 Due Diligence report commissioned by the former Department of Immigration and Citizenship prior to the re-establishment of the immigration detention facility in Nauru noted that the existence of cadmium posed a threat to the groundwater in Nauru and noted a report completed by the Government of Nauru in 1996 that recommended further studies to be carried out regarding the extent of the threat of cadmium disposal to human health and the environment. It is not known whether further studies have been undertaken.

In February the Australian Lawyers Alliance submitted a [brief](#) to Comcare Australia requesting that under the terms of their act they investigate this issue and act accordingly. To our knowledge nothing has happened.