Select Committee on the Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru

20 May 2015

I write this submission to the Select Committee on the Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru, having worked for Save the Children on Nauru from May 2014 to April 2015. Initially I was employed as a Child Support and Protection Worker, this title later changed to Child and Families Case Worker, in this role I was responsible for the case management and support of up to 30 individuals in the child and families camp, Regional Processing Centre 3 (RPC3). Further to this role in October 2014 I, along with 5 others, were trained in the role of Child Protection Focal Point, with additional duties that included but was not limited to, training of staff in child safe guarding, oversight of incident reports and ensuring a child focused approach in service delivery.

This submission will address the first four terms of reference. In writing the submission I will include general examples of the conditions for asylum seekers on Nauru as well as further illustrating the conditions by providing examples of specific cases. To ensure the privacy of the individuals I will not use names and have limited the identifying information included, however have provided dates for specific events where known in order that their validity be verified. The examples given are by no means an exhaustive list, however raise particular issues and for reasons of brevity further examples are not given.

How is the Commonwealth Government fulfilling its obligations under the Memorandum of Understanding between The Republic of Nauru and the Commonwealth of Australia relating to the transfer to and assessment of persons in Nauru, cost and related issues?

In article 17 of the MOU both the Australian Government and Nauru Government commit to:

> *17. The Participants will treat Transferees with dignity and respect and in accordance with relevant human rights standards.*[1]

However my experience working with asylum seekers on Nauru this was not upheld. Article 25 of the United Nations Universal Declaration of Human Rights states;

> *(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.*[2]

A simple example of this is the standard of the food provided to the asylum seekers. Asylum seekers are provided three opportunities to eat daily, in a common 'mess' tent. Typically the mess will be open for two hours in the morning, mid-day and evening. There would usually be three warm selections of food, which always included a bland dhal curry and two other 'protein' options, rice, possibly one or two hot vegetable options, a selection of four cold 'salad' items and some form of bread. Asylum seekers would regularly complain that the food was of poor quality, flavourless and culturally inappropriate, these complaints would be made using the Transfield feedback mechanism, to visiting ICRC monitoring delegations and to case workers who documented the complaints in individual management plans. As a case manager I often took the opportunity to meet with my clients informally over lunch, therefore observing over a consistent period of time the poor quality of the food provided. This has included wheels of processed meat cut into approx 2cm thick slices covered with red sauce as a protein option, staff being unable to advise what

[1] http://dfat.gov.au/geo/nauru/Pages/memorandum-of-understanding-between-the-republic-of-nauru-and-the-commonwealth-of-australia-relating-to-the-transfer-to-and.aspx
[2] http://www.ohchr.org/EN/UDHR/Pages/Language.aspx?LangID=eng

ingredients where in hot dishes (including if the dishes contained meat), sliced raw brown onions as a salad option, mouldy food in bain-marie and stale bread.

This would not be such an overt display of lack of respect and dignity in the treatment of asylum seekers if it were not for the standard of food provided at the staff mess, also catered for by Transfield and proving that it is not a matter of food availability resulting in the low quality food in the asylum seeker mess. At the staff mess there would be a choice of three protein dishes, but this never included processed wheel meat, rather it would include various cuts of steak including porterhouse and t-bone, seafood, pork belly and roast meats. The salad selection would have five selections of salads that include a variety of ingredients, including foods associated with a Middle Eastern diet such as pomegranate, cranberries, pine nuts and stone fruits. These are all items asylum seekers identified that they would eat culturally, but these were items that I never observed as served in the asylum seeker mess and asylum seeker feedback supported those observations. Along with the more extensive salad selection in the staff mess there is also a sandwich bar enabling staff to make their own salads or sandwiches, a dessert selection, usually extending to 5-6 choices of desserts and a range of fruit provided that staff could take with them on leaving.

Further to this example of providing poor standard of living in relation to food I will highlight a specific case where the Department of Immigration and Border Protection (DIBP) breached Article 25 of the United Nations Universal Declaration of Human Rights, contravening their commitment to Article 17 in the MOU, by denying an asylum seeker medical attention despite medical recommendations from staff of the medical service provider International Health Medical Service (IHMS).

The asylum seeker is a male head of household of Middle Eastern origin, he has a wife and two children, they arrived in Nauru in November 2013. The information provided here is informed by numerous conversations with the man and his family, my observations between June 2014 and October 2014 and the asylum seeker having provided me a copy of his IHMS medical records to read to him.

The asylum seeker complained of significant back pain that prevented him from walking due to the uneven surfaces of the centre and his pain level, and over time that he was also experiencing incontinence and erectile dysfunction as a result of the back pain, as well as nightly bed wetting, he had advised IHMS and case managers of the pain over a period of months. It was recorded in his medical file that on 1 May 2014 his case had been referred to the IHMS Assessment Centre in Sydney for further follow up and that the IHMS staff on island were waiting on a response from the Assessment Centre. On the 19 May 2014 the asylum seeker was advised that he was on a waiting list, he was then advised later in the month that he would be leaving on 31 May 2014 for medical treatment in Australia. The asylum seeker was not medically transferred on the 31 May 2014 and he advised that he was not provided any reasoning why this was the case.

On 4 June 2014 the asylum seeker reported urinary incontinence and it was recommended that he have an MRI urgently. Following this it is noted on the 8 June 2014 that it was recommended that he have an orthopaedic review as soon as possible, however when the Assessment Centre was contacted it was noted that IHMS were waiting on authorisation from DIBP. On 30 June 2014 IMHS staff on Nauru contacted the Assessment Centre and were advised that the asylum seekers treatment had been blocked by DIBP and this was recorded in his medical file.

The asylum seeker did not receive this information until 3 September 2014 after having requested and received a hard copy of his medical file. Once in possession of this information the asylum seeker raised complaint that DIBP had denied him medical treatment, despite medical advice that urgent treatment was required, through the complaint mechanisms, case management systems and with other staff including Wilson Security Behaviour and Welfare teams. The asylum seeker and his family were medically transferred to Australia on a date between 24 September and 4 October 2014, more than 3 months after the orthopaedic review was recommended to occur "as soon as possible".

How is the performance of the Commonwealth Government in connection with the Centre, including the conduct and behaviour of the staff employed at the Centre, to the extent that the Commonwealth Government is responsible?

On the 22 April 2014 an incident report was completed by a Save the Children staff member with information from an adolescent female asylum seeker that she and her friend had been subject to

inappropriate conversation from male security staff members, believed to be Nauruan. The asylum seeker advised that the conversations included statements of sexual innuendo and harassment, and that the security staff members had attempted to hug and kiss the adolescent females. The incident report is subsequent to an earlier report, date unknown, and advises that the harassment of the adolescents had been occurring for three to four weeks.

This incident report is one example that contains clear information of allegations of inappropriate sexualised behaviour by centre staff towards asylum seeker minors in April of 2014, however the broader investigation into sexual abuse did not begin until October 2014, six months later.

During the period between June and July a complaint was submitted via the Transfield request and complaints mechanism by a mother of a 3 year old female child, this complaint was supported by an incident report by the case manager. The asylum seeker advised, both in her complaint and to the case manager, that on an evening a few days prior she and her daughter were in the vicinity of area 1 of the camp, though they resided in area 9 (a specific accommodation area for families with children under 4 years). That while in area 1 her daughter had needed to go to the toilet, as the distance from area 1 to area 9 was a significant distance, especially for a 3 year old child, the mother attempted to take her daughter to the toilets in area 1. She advised that the security staff person had refused her access to the toilets, telling her to go to area 9, the mother told the staff member that her daughter could not make the distance and that she had to go now, so would go outside the toilets if not allowed in. The mother then advised that she assisted her daughter to squat and urinate, while her daughter was urinating with her mother holding her the security member shone their torch up the child's genitals. The mother reported that both she and her daughter had found this incident very distressing. The asylum seeker continued to bring up this issue with her case manager, owing to the distress, and also because she received no response in regards to her complaint about the staff member.

The conduct of individual staff members towards asylum seekers, though not behaviour of a sexual nature, was also an issue that asylum seekers raised and it is here that I provide a more specific example of ethically questionable behaviour that I believe DIBP was made aware of. This example involves a DIBP staff member with the title of Administration and Operations Support Officer and an adult male asylum seeker. The DIBP officer contacted Save the Children welfare staff on 16 October 2014 requesting a meeting with the asylum seeker "to view some documents" to occur on either 17 October or 20 October 2014. The DIBP staff member advised via e-mail, on further enquires to the highly unusual meeting between a DIBP staff member and an asylum seeker, that:

> *"the documents are just in relation to his property that hasn't been returned to him yet. I have pictures for him to look at and advise if the property belongs to him or not".*

Following the meeting the asylum seeker advised Save the Children staff that he had not requested the meeting, that upon arrival at the meeting he was presented with 8 photographs of items which included 1 navigator, 1 Indian flag, 3 GPS, 1 satellite phone, 1 passport document and 1 letter. The asylum seeker also advised that he was concerned that the DIBP staff member was trying to implicate him as an organiser of the boat he arrived on and further that he was anxious that this would impact on his refugee status determination. I'm not going to comment on the appropriateness of DIBP conducting investigations into asylum seekers and inferences that the asylum seeker could be a boat organiser, however the issue that was raised through line management in this instance was the manner in which a DIBP staff member arranged this meeting with the asylum seeker. The staff member engaged in deception to ensure that case work staff would assist is arranging this meeting and the attendance of the asylum seeker, where the DIBP staff member had access to all the processes to arrange and have an asylum seeker attend the meeting without the support of the asylum seekers case worker. Bearing in mind case managers are often seen by the asylum seekers as their key support person in the Centre. The action of the DIBP employee created a significant amount of stress for the asylum seeker as reported by the asylum seeker to his case manager over the following months.

Further to the above example above there is one final issue of staff conduct that I think worthy of raising. Early in 2015 Save the Children had organised a recreational program for women in the Centre to be able to attend a cooking excursion on Friday afternoon/evenings, this was an important activity for the women who were disempowered from months in detention. On Friday afternoons a small group of female asylum seekers would be taken by bus from RPC3 to a facility in the Naurun community, they were accompanied

by Save the Children staff and security personnel. The women would cook cultural food and eat together before returning to RPC3, on most occasions the women would cook excess food in order to bring some back to RPC3 to share with their children and husbands, having not been able to cook for their families for their period of detention. The children would be gathered at the bus stop waiting their mothers return. However despite being able to package up food at the activity, on return to the Centre security staff at the bus stop would confiscate the food and throw it in the rubbish bins in view of the women and children, often berating them and being rude about the confiscation of the food items. This caused a great deal of distress for the women and their children. Only on one occasion did the security staff have the initiative to allow the families to consume the food in the bus stop area, therefore not taking the 'contraband' into camp.

How the Commonwealth Government's duty of care obligations and responsibilities with respect to the Centre?

While all staff of the Centre are supposed to sign a Code of Conduct, including child safe guidelines, prior to commencement of work, as a Child Protection Focal Point, the anecdotal evidence from conversations with staff across service providers would suggest that this practice is not adhered to as many staff advised that they had not signed such a document. Further to this none of the DIBP contracted translation personnel are required to hold working with children checks, despite having contact with children in the child's first or second languages, which cannot be supervised by the staff they are translating for. Until November 2014 there was also no formal child protection and safeguarding training for any staff at the Centre. Between November 2014 and April 2015 the only staff working at the Centre who had undergone any specific training in child protection were from Save the Children. In this alone there appears to be a gross lack in structural systems to protect children at the Centre.

As the mental health of parents in the Centre has declined they have increasingly been unable to provide adequate care for their children for periods of time, resulting in increasing numbers of parents relinquishing care of their children while the parents address their mental health issues, this is particularly prevalent in the population of single parents in the Centre. While this phenomenon was entirely predictably following the decline in parents' presentation and their statements of an inability to continue to care for their children, there was no apparent planning for the eventuation of a parent relinquishing care of their children. It has now occurred on a number of occasions that parents have relinquished care of their children, with the system unprepared for this, children are left to be cared for by Save the Children case managers and recreation staff in facilities for asylum seekers who are having extended medical treatment or being medically observed, including asylum seekers who have attempted suicide. As it stands there are no legal protections for staff or frameworks for providing supervision and care to these children, leaving both children and staff vulnerable.

Further to this DIBP are not equipped or prepared to manage the complex relationships that have developed in accommodating traumatised people for extended periods of time and the issues that arise from that, including possible criminal acts have been committed. This case example involves a middle aged father of a pre-teen female child and a number of her pre-teen friends. During February, following protective behaviours education, a collective of approximately four pre-teen females made disclosures to Save the Children staff that a father of their friend had touched them inappropriately. These allegations were followed up on by Save the Children case managers and it was established that the sexual abuse was likely to have occurred. Prior to further investigation by police the alleged perpetrator and his family members, including his pre-teen daughter, were moved to an isolated accommodation facility. On April 1 2015, Nauru police attended the Centre and interviewed the alleged victims, who disclosed abuse to the police. During this interview period the case manager of the child was not allowed to sit in on the interviews to support the child, rather a more senior staff member attended under the direction from Save the Children management that staff needed to support the Nauru police. It was understood from the reaction of the family that they did not believe their child, dismissing the allegations and disclosure as a mistake or misunderstanding.

On the evening of 2 April 2015 the child who had disclosed, along with her family were advised that they would be departing Nauru and were moved to an isolated accommodation area in order to fly to Australia

on April 3. This was the same accommodation area that her alleged abuser was located, despite having disclosed to police barely 24 hours prior and not being supported by her parent in her disclosures. On the morning of 3 April 2015 when the case manager became aware of the situation and advised Save the Children's Operation Manager, the case manager was told that the alleged perpetrator would not have been able to touch the child and that the situation was appropriately safe. It should be noted however that the same Save the Children Operations Manager, after attending a child protection training sessions that I conducted in November 2014, admitted that they knew very little about child protection and how complex it is. The situation this young girl was placed in is a blatant disregard by all service providers in the system to the psychological impact of exposure to the alleged perpetrator, the trauma of sexual abuse and their duty of care for her, particularly after making formal disclosure barely 24 hours earlier.

The circumstances that precipitated the Moss Review, including allegations made regarding conditions and circumstances at the centre and the conduct and behaviour of staff employed by contracted service providers, the timing of the Commonwealth Government's knowledge of the allegations, and the appropriateness of the response of the Commonwealth Government to these allegations.

As mentioned earlier, I am aware of allegations of sexual harassment of minors by staff of the Centre being reported in April 2014, approximately six months before the announcement of the Moss review. As a case manager of adolescents who self-harmed and made suicide threats, questions from DIBP in Canberra would be asked of case managers on Nauru within five hours of incident reports being written and submitted through the reporting system. Therefore it is reasonable to assume the Commonwealth Government was aware of serious allegations being made and incidents occurring within hours of the reporting of the issues. However in statements following media coverage of Human Rights Commission submission 183, a spokesperson for the Immigration Minister at the time Scott Morrison said:

> "*The department is working with Save the Children and the government of Nauru to determine the veracity of these anonymous claims and to what extent they are credible or relate to current practice*".[3]

Further the statement continues:

> "*The department has also asked Save the Children if any such concerns have been raised by any of their staff*".[4]

These statements would suggest that DIBP was unaware of the allegations, however as noted above the department, including staff in Canberra, were aware of significant incident reports, particularly those involving children within hours of reports being written on Nauru. The allegations made in Human Rights Commission submission 183, with extensive referencing of incident reports, should not have been new information to the Minister or his staff in Canberra.

[3] http://mobile.abc.net.au/news/2014-08-14/human-rights-commission-hears-abuse-against-nauru-asylum-seekers/5670420
[4] http://mobile.abc.net.au/news/2014-08-14/human-rights-commission-hears-abuse-against-nauru-asylum-seekers/5670420