

Recommendations

Recommendation 1

5.22 The committee recommends that, consistent with the terms of the Memorandum of Understanding and related arrangements between the governments of Australia and Nauru, Australia ensure that support and assistance is provided to Nauru's police, judicial, prosecutorial and other law and justice entities to the extent necessary to ensure that Nauru's justice system meets the standards of accountability and probity required by Australian and international law.

Recommendation 2

5.26 The committee recommends that the Government of Australia, in consultation with the Government of Nauru, agree on and publicly commit to a model timeframe for refugee status determinations, and that Australia provide the Government of Nauru with the support necessary to achieve faster and more predictable processing of claims.

5.27 The committee further recommends that asylum seekers be informed about the steps being taken to process their claims, be regularly updated on the progress of the claim, and that an explanation be provided to asylum seekers when model timeframes are not met.

Recommendation 3

5.37 The committee recommends that the Immigration Ombudsman undertake independent external review of all complaints involving the conduct of Australian-funded staff or contractors at the Regional Processing Centre, and that the government ensure that the office of the Ombudsman is adequately resourced to do so.

5.38 The committee further recommends that the Ombudsman report to parliament on an annual basis on the number and nature of the complaints received and the outcomes of the Ombudsman's assessment of them.

Recommendation 4

5.39 The committee recommends that briefing be required to be provided to all asylum seekers on their rights to lodge complaints with independent bodies such as the Immigration Ombudsman, the Australian Human Rights Commission and the International Committee of the Red Cross, both generally and in specific response to any complaints made.

Recommendation 5

5.43 The committee recommends that Australia increase the transparency of conditions and operations at the Regional Processing Centre, including by ensuring the provision of reasonable access, in negotiation with the Government of Nauru as necessary, by the Australian Human Rights Commission and by the media.

Recommendation 6

5.45 The committee recommends that the Department of Immigration and Border Protection require, in its contracts with service providers, that comprehensive drug and alcohol testing be conducted on staff employed at the Regional Processing Centre on Nauru, including daily random tests for both alcohol and drugs.

Recommendation 7

5.49 The committee recommends that the Department of Immigration and Border Protection provide full and disaggregated accounts in its Portfolio Budget Statements, annual reports and other relevant reports to Parliament and to the Australian public, of the expenditure associated with the Regional Processing Centre on Nauru. This accounting should include detailing costs specific to the Nauru RPC, as well as related support and assistance provided by the Australian Government to the Republic of Nauru.

Recommendation 8

5.52 The committee recommends that a full and disaggregated account of all works conducted in association with the Regional Processing Centre to date be reported by the Department of Immigration and Border Protection to the Senate.

5.53 The committee recommends that a clarification be provided to the Senate by the Department of Immigration and Border Protection as to why exemptions on the grounds of assistance to foreign governments apply to expenditure associated with the Regional Processing Centre on Nauru.

5.54 The committee further recommends that all expenditure associated with the Regional Processing Centre on Nauru, including expenditure considered to be assistance to a foreign government, should be specifically reported to the Senate Legal and Constitutional Affairs Legislation Committee before each estimates round.

Recommendation 9

5.59 The committee recommends that the Australian Government continue to review the operation of the Regional Processing Centre with a view to expanding open centre arrangements. The committee recommends that the Regional Processing Centre on Nauru move toward becoming a more open, lower security living arrangement for all asylum seekers except where there is a compelling reason for an asylum seeker to be accommodated more securely.

5.60 The committee recommends that any savings resulting from the implementation of an open centre model be redirected toward improving the living conditions of asylum seekers in the Regional Processing Centre, with a focus on humane living arrangements, services and amenities, including improved access to communications. The committee recommends that the Department of Immigration and Border Protection report publicly and to the Senate within 12 months on progress in this regard.

Recommendation 10

5.67 The committee recommends that the government commit to and publicly release a medium to long term plan for the completion of permanent infrastructure at the Regional Processing Centre on Nauru, including the construction of solid accommodation structures, and for tangible improvements to amenities for asylum seekers including lighting, water, toilets, air conditioning, cooking facilities and communications.

5.68 The committee is convinced that welfare services must be provided by a dedicated welfare service provider with the required experience and accreditation to undertake such work. The committee recommends that a non-government organisation be contracted directly by the Department of Immigration and Border Protection to provide welfare services to all asylum seekers within the Regional Processing Centre on Nauru.

Recommendation 11

5.76 The committee recommends that the government extend its current policy commitment to remove children from immigration detention to the maximum extent possible, to include the removal of children from the Regional Processing Centre in Nauru. The government should develop a plan for the removal of children from the Nauru RPC as soon as possible, with their families where they have them, to appropriate arrangements in the community.

Recommendation 12

5.79 The committee recommends that the Australian Government commit to and publicly state a specific plan for addressing the educational needs of asylum seeker and refugee children in Nauru.

Recommendation 13

5.85 The committee recommends that the Department of Immigration and Border Protection, in consultation with the Australian Federal Police, undertake a full audit of all allegations of sexual abuse, child abuse and other criminal conduct reported to the Australian Human Rights Commission, to the Moss Review and to this inquiry, seeking the agreement of these bodies to share confidential information where necessary to conduct such an audit.

5.86 The committee further recommends that, taking into account the need to protect personal privacy, the minister should report to the Senate by the end of December 2015, and every six months thereafter, setting out all allegations of a criminal nature made in relation to the RPC, and the action taken by the department and other relevant authorities in response.

Recommendation 14

5.91 The committee recommends that legislation be passed by the Australian Parliament requiring the mandatory reporting of any reasonably suspected unlawful sexual contact, sexual harassment, unreasonable use of force or other assault perpetrated against asylum seekers at the Regional Processing Centres, under similar

terms as the mandatory reporting provisions contained in existing Commonwealth, state and territory laws.

5.92 Such legislation should require that the reporting is made to the Department of Immigration and Border Protection and the Australian Federal Police, as well as any relevant state, territory or foreign police force and, where the matter relates to a child, child protection authorities in any relevant jurisdictions. The legislation should utilise Category C or D extraterritorial jurisdiction to apply in Nauru, and impose penalties for noncompliance comparable with those which apply in existing legislation within Australia.

Recommendation 15

5.94 Given the committee's concerns about the level of accountability and transparency that currently applies to the operation of the regional processing centre in the Republic of Nauru, the committee recommends that the following matter be referred to the Legal and Constitutional Affairs References Committee for inquiry and report by 31 December 2016:

- a) conditions and treatment of asylum seekers and refugees at the Regional Processing Centre in the Republic of Nauru;
- b) transparency and accountability mechanisms that apply to the Regional Processing Centre in the Republic of Nauru;
- c) implementation of recommendations of the Moss Review in relation to the regional processing centre in the Republic of Nauru;
- d) the extent to which the Australian funded regional processing centre in the Republic of Nauru is operating in compliance with Australian and international legal obligations;
- e) the extent to which contracts associated with the operation of offshore processing centres are:
 - delivering value for money consistent with the definition contained in the Commonwealth procurement rules;
 - meeting the terms of their contracts;
 - delivering services which meet Australian standards; and
- f) any related matter.