



RACGP

Royal Australian College of General Practitioners

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**Royal Australian College of General Practitioners (RACGP) submission to Senate Standing Committees on Legal and Constitutional Affairs Inquiry:
*Serious allegations of abuse, self-harm and neglect of asylum seekers in relation to the Nauru Regional Processing Centre, and any like allegations in relation to the Manus Regional Processing Centre***

The Royal Australian College of General Practitioners (RACGP) welcomes the opportunity to provide this submission to the Senate Legal and Constitutional Affairs Committee Inquiry into the serious allegations of abuse, self harm and neglect of asylum seekers in relation to the Nauru regional processing centre and any like allegations in relation to the Manus Regional Processing Centre.

The RACGP represents more than 33,000 medical specialists and trainees in Australia. Together with the Australian Medical Association (AMA), the Royal Australasian College of Physicians (RACP), the Royal Australian and New Zealand College of Psychiatrists (RANZCP) and the Australasian College for Emergency Medicine (ACEM) the RACGP has consistently raised concerns about the physical and mental health of asylum seekers, particularly the impact of immigration detention on children and families. The RACGP statement 'Healthcare for refugees and asylum seekers' (March 2015) (1), the ACEM position statement on asylum seeker health (2), and the position statements of the other colleges (3,4) provide a clear outline of the respective positions.

As the key professional body representing Australian general practitioners and trainees the RACGP opposes the policy of restrictive mandatory detention and the transfer of asylum seekers to offshore processing centres, particularly for vulnerable groups such as children, women and survivors of torture and trauma. This stance is founded on a significant body of evidence in the medical literature that outlines the physical and psychological harms of detention as well as the harms of living in prolonged uncertainty both inside and outside the restrictive detention environment. It is imperative to acknowledge the current international context that just under 1% of the world's population have been forcibly displaced and according to UNHCR 2016 statistics, 33972 people flee their homes every day due to conflict. (5)

Health professionals are ethically bound to advocate for the vulnerable and to speak out against policy that is harmful to health. There is no doubt that the current legislative framework is causing harm. It is imperative to acknowledge that the mental health issues caused by or exacerbated by detention and by the offshore processing experience, cannot be addressed while people remain in detention and/or living in uncertainty, regardless of the extent or quality of services available.

The stressors faced by individuals and families seeking asylum are typically not relieved on release from off-shore detention into the communities of Nauru and PNG. Unlike the situation in Australia, Nauru and PNG were not the destinations that individuals risked their lives to reach, thus even those found to be refugees continue to face substantial difficulties that adversely impact health including:

- the perceived injustice and unfairness of process in that a proportion of the asylum seekers who arrived after 19 July 2013 were sent to Nauru and Papua New Guinea (PNG) while others remain in Australia. This group of people have been told that they will not be able to settle in Australia, while the majority of individuals who are found to be refugees, who arrived by the same route in the days or weeks prior, will
- inadequate standards of health care, particularly mental health care to meet the needs of this vulnerable population, that are different from the local communities
- a persistent lack of clarity about the future, due to a lack of durable settlement options.
- limited opportunities for education and employment
- lack of potential for family reunion
- security concerns, with evidence of insufficient processes and protections in place to prevent and to investigate abuse if it occurs

- limited access to legal supports.

The RACGP notes that processing of asylum seekers is well underway in both Nauru and PNG. As of May 2016, of the 1194 individuals processed in Nauru, 77% were found to be refugees and of the 551 processed in PNG 98% have been found to be refugees. Four of the individuals on Nauru agreed to be resettled in Cambodia, the rest remain on Nauru and PNG awaiting a fourth country option for resettlement. (6)

To date, most of these individuals have been in detention and/or living in a state of uncertainty regarding their claim for asylum and settlement options, for over three years. It is also noted that as of November 2015, refugees accounted for approximately 8% of the total population of Nauru.(7) For a rich but homogenous culture such as that in Nauru, this change in population, creates a substantial social burden and thus a source of potential conflict.

In addition to the submission that was made to the last inquiry, the RACGP notes the changed terms of reference for the current inquiry, and provide the following submission in the areas relevant to health and health service delivery in Nauru and PNG.

A. The factors that have contributed to the abuse and self-harm alleged to have occurred

Ai. Risk factors for abuse

The offshore detention environments have a high prevalence of a number of risk factors, that have been identified in Australian and international research, to increase the potential for abuse of the most vulnerable, namely:

- mental health problems affecting parents and/or children
- high parental stress with consequent adverse impacts on parenting abilities.
- inadequate housing.
- Stressful life events (8)

It is broadly accepted that living in a permanent state of uncertainty contributes to high rates of mental illness and also diminishes individual self agency, resilience and independence. In order to reduce the potential for abuse in this vulnerable population and to ensure robust investigation and follow up if allegations arise, the following structures are essential:

- A robust legislative framework that enables an effective mandatory reporting process of suspected child abuse.
- A policing and judicial system that enables adequate investigation (including medical forensic capabilities) and support for alleged victims of assault.
- Existence of an independent, expert oversight body to ensure that processes and systems are effective and efficient.

It is noted that the Nauruan government passed child protection legislation in June 2016, which is to be commended, however it has not been possible to ascertain whether this has been adequately implemented for children currently at risk, or whether the systems outlined above are in place and functional at this time.(9)

The prevalence of intimate partner violence amongst the Nauruan community, is high – 48.1% of ever-partnered women have experienced violence from a partner and 20.6% have experienced sexual violence at least once in their lifetime.(10) These rates are comparable to Australia where 38% of women have experienced physical violence and 17% sexual violence since the age of 15 years.(11) The prevalence of child abuse in Nauru is not known.

Information is available in relation to Nauru and other allegations of assault and child protection risks in Australian immigration detention through:

- The Moss Inquiry (Review in recent allegations relating to conditions and circumstances at the Regional Processing Centre in Nauru, 2014),(12) that cited that there had been thirty child abuse allegations by guards and other asylum seekers and recommended referral to the Nauruan Police Force

- the (indirect) findings of the Australian Human Rights Commission Inquiry (The Forgotten Children: National Inquiry into Children in Immigration Detention, 2014) (13)
- the 2015 report on children in Wickham Point Alternative Place of Detention by RACP members (14) that both outline the child protection risks of these environments and more recently
- the 'Nauru files' that contain redacted incident reports from 2013-2015. These outline 2000 incidents including self harm, violence and alleged assaults. (15)
- noting previous Senate Committees (16–18) and the external monitoring reports of both Nauru and Manus Island, PNG) through the United Nations High Commissioner for Refugees (UNHCR) (19, 20) and Amnesty International.(21, 22) These reports and inquiries are consistent in their description of serious human rights and safety concerns, including child protection concerns.

Aii. Risk factors for self-harm and suicide

There is substantial evidence in the medical literature that immigration detention is detrimental to the physical and mental health of people of all ages, both in the short and long term. Asylum seekers in prolonged detention face profound uncertainty, hopelessness and fear for their future, which, in combination with the restrictive environment and lack of meaningful activity, contribute to high rates of mental health problems, self-harm and attempted suicide as well as physical health problems.(23–41)

There have allegedly been 17 deaths of individuals, both in restrictive detention and who were living in the community on and offshore as asylum seekers or refugees, that are suspected to be due to suicide, since February 2014. Two of these deaths were been reported in the media in 2016 from Nauru.(42)

The RACGP does not have insight as to whether the Department of Immigration and Border Protection (DIBP) has clear processes to investigate and respond to these deaths, to enable the development of understanding and to identify modifiable factors that may minimise risks for the future. It would welcome news from the DIBP, that the department has clear, established processes in regards to root cause analysis of sentinel events such as these, including access to independent oversight to ensure transparency and robustness. Awaiting the outcome of Coronial investigations that can often take years is not an appropriate response to such statistics.

The paucity of summative data on the health and wellbeing of people in the regional processing centres, particularly in regards to current prevalence of mental health issues, suicide and self-harm attempts, is noted. In particular that the International Health and Medical Services (IHMS) dataset that is publicly available, through a freedom of information request (43), does not provide adequate quality of information to enable determination of the effectiveness of health service provision or to determine the true prevalence of conditions of interest such as mental health diagnoses. In such a high-risk environment, this is completely inadequate.

The practice of combining IHMS encounter data for Nauru and Manus Island, is counterintuitive given the different demographic compositions of the two populations, and the different health service environments. The failure to provide data on rates of attempted and actual self-harm, which are a component of the Australian and international minimum datasets for health services of detained persons (44) is inexcusable.

The most recent publicly available IHMS data is from October to December 2014, this outlines mental health screening results using the Kessler psychological distress scale (K-10), the combined Manus and Nauru results demonstrated that 23.7% of the population in detention had a score in the moderate to severe range on the scale (compared to 17% of onshore detainees) it was noted that 'individuals with higher levels of distress were less likely to participate in screening, meaning that this is likely to be an underestimate'. The high scores were attributed by IHMS to the fact that these individuals are faced with 'hopelessness and apprehension about their future'.(43) These stressors are likely to also be experienced by those in the community, who were not represented in the screening results. There is also no information in the IHMS data sets on developmental screening of children.

Information on developmental screening for children in Nauru was provided by the Surgeon General, Dr John Brayley, to Senate Estimates in February 2016. Dr Brayley advised the senate committee that 71% of the children on Nauru whose parents completed the Strengths and Difficulties Questionnaire (SDQ) were rated in the abnormal range.(45) This is of significant concern to the RACGP.

It is respectfully requested that the Senators involved in this inquiry, gain access to the recent UNHCR report on the incidence of post-traumatic stress disorder (PTSD), depression and anxiety in Nauru and Manus island detention centres. The RACGP would expect there to be high rates of psychiatric illness in individuals experiencing prolonged detention as well as those living in the community facing uncertainty, as this would be consistent with broader evidence.

It is noted that the Government of Nauru passed the Mentally Disordered Persons (amendment) Act in May 2016 to enable involuntary admission of individuals considered to be at risk for psychiatric treatment and makes the use of interpreters a statutory requirement in this context, which is to be commended as this enables health professionals to keep people safe at least temporarily.(46) It is not clear to the RACGP whether there are adequate therapeutic facilities existing on Nauru currently to hold acutely unwell psychiatric patients as long as needed to achieve this.

B. How notifications of abuse and self-harm are investigated

Bi. Management of child protection concerns

The 2015 UNICEF review of the child protection system in Nauru noted that 'Nauruan police are reluctant to investigate child abuse cases' due partly to 'cultural norms against interference in private family matters'. The review also found that serious sexual and physical abuse are widely viewed as reportable offences, however neglect, emotional abuse and witnessing of violence, that are recognised to put children at risk of adverse psychological and developmental consequences were not widely understood to be harmful to children.(47) The Nauruan police force was noted to have limited capacity to respond in the Moss Review recommendations made in 2015.(12)

The RACGP understands that the Government of Nauru and DIBP have been working to develop child protection frameworks since the release of the Moss Review. The Government of Nauru passed the Child Protection and Welfare Act in June 2016 (9) and established the Child Protection Directorate which are achievements to be commended.(47) It is not clear how well the systems introduced by both governments (with the Australian government this relates to contracts with stakeholders) are integrated and whether this has enabled more streamlined and comprehensive reporting and investigation of children who are considered to be at risk and thus capacity to provide enhanced protection. It is also unclear as to whether there is any independent oversight of the child protection framework in Nauru.

It is noted that the Australian Government independent child protection panel the terms of reference of which include review of child protection responses both in Australian restrictive and community detention and in offshore centres plan to provide its report to the Secretary of DIBP in mid-2016, but it is not clear whether and when this will be made public.(48)

Bii. Self harm management

Concerns regarding lack of available data on mental health screening and threatened and self harm incidents for those in the community as well as in detention on Nauru and Manus Island have been outlined previously. Without access to meaningful data on mental health, it is difficult to comment on adequacy of management and whether there are robust processes in place to improve outcomes and to reduce risk.

C. The obligations of the Commonwealth Government and contractors relating to the treatment of asylum seekers, including the provision of support, capability and capacity building to local Nauruan authorities.

D. The provision of support services for asylum seekers who have been alleged or been found to have been subject to abuse, neglect or self-harm in the Centres or within the community while residing in Nauru,

C/Di. Enhanced capacity in mental health services

As a key organisation representing primary care physicians it is our professional responsibility to address this question from a medical ethics perspective. The individuals on Nauru and Manus Island as refugees or asylum seekers are there because of Australian government legislation, it is therefore the responsibility of the Australian government to manage the physical and mental health

consequences of the decision to transfer this vulnerable population to offshore centres and, when deemed to be refugees, into the local communities.

In regards to health service provision, there is a good understanding of the needs of this population due to the Australian experience, particularly the need for culturally sensitive, trauma informed mental health care. When faced with the physical and mental health consequences of years of detention and living in uncertainty, as previously outlined, this creates vulnerabilities that require enhanced mental health services. Cultural understanding and beliefs about mental health are very different in Nauru and Papua New Guinea to Australia. The capacity of both countries to provide specialist psychiatric care for the complex mental illnesses known to be associated with prolonged detention as outlined previously, is very limited. Expecting mentally distressed refugees to be effectively treated in systems that already have limited capacity to provide psychiatric care, when their mental health status will have been significantly contributed to by their experiences in detention, is both unethical and unjust.

The only ethical response is to improve the standard of health care and ensure equitable access for all, with provision of a stream of specialist trauma informed services for those that need it, both inside detention and in the community. These improvements need to be led by the respective governments in collaboration with the Australian government to build infrastructure and professional capacity, specifically targeting mental health services and forensic capabilities both in health services and the Nauruan Police Force. As stated previously, while refugees and asylum seekers continue to live in a state of hopelessness and uncertainty, regardless of the quality of services provided, it is unlikely that a significant decrease in suicide and self-harm and other adverse mental health outcomes will occur.

In the context of what has been outlined previously, the Australian government must monitor refugees' settlement and particularly their mental health post-discharge from detention into the community in Nauru and PNG. The continued lack of personal security, limitation of educational, employment and family reunion opportunities and lack of adequate psychiatric for refugees is unlikely to be conducive to recovery from detention and successful settlement.

C/Dii. Capacity for other health services

In regard to other health services, particularly access to specialist care and investigations, it is important to note that this is not a clear cut issue. The capacity of a health system is not necessarily enhanced by adding extra infrastructure, which appears to be the current approach on Nauru. It may actually be diminished as a consequence.

It is possible that the addition of high-tech infrastructure, such as radiology equipment, may impose a financial burden on the country in terms of maintaining the machines in that environment. Plans to increase capacity across Nauru for healthcare should recognise that the patterns of health needs are different – Nauruans face an epidemic of chronic diseases such as type 2 diabetes, kidney disease and cardiovascular disease, while asylum seekers face an epidemic of mental illness.

Other important services such as child health, with routine developmental screen and health checks, could usefully be improved and this would benefit both groups; as would maternal health care services.

C/Diii. Enhanced capacity in regards to management of alleged abuse

Alleged victims of abuse need to be supported fully throughout their experience. The Nauruan authorities appear to have taken many positive steps in recent times to enhance support frameworks for children and for women who have experienced abuse (10, 47) however we have no insight as to whether these are fully functional and thus able to access the most vulnerable in need of support. It is also not clear whether the processes, enable effective engagement with the Nauruan Police Force to investigate alleged offences.

The RACGP has significant concerns about risks of returning individuals in Nauru to the detention or community environment where the alleged abuse occurred, as the risk of exposure to the alleged perpetrator is highly likely.

E. The role an independent children's advocate could play in ensuring the rights and interests of unaccompanied minors are protected.

As outlined in section Ai., it is imperative to have a robust child protection framework with mandatory reporting and clear escalation process to enable children who are considered to be at risk, to be protected. The RACGP has seen no evidence that this is currently consistently implemented on Nauru. Within this framework there is a need for independent oversight such as the statutory role of an ombudsman. The recently formed Child Protection Directorate, that sits within the Department of Home Affairs (47) may fulfil this role, however its effectiveness and independence, needs to be clarified.

F. The effect of Part 6 of the *Australian Border Force Act 2015*

The RACGP welcomes the amendments to the *Australian Border Force Act (2015)*, which exclude health professionals from penalties if they uphold their responsibilities according to the Health privacy act. (49) The short time since the change to the Act and the submission to this inquiry has limited RACGP members to provide written evidence from their clinical experiences to this submission. In the absence of adequate monitoring data about abuse and self harm and reporting of investigations into abuse and self-harm, the RACGP requests an invitation be extended to healthcare workers who have worked on Manus and Nauru to give clinical evidence to this enquiry.

The RACGP believes that the exclusions outlined in the Act should be extended to other professionals who may come into contact with individuals at risk such as social workers, teachers and security staff.

It is requested that a comprehensive measurement and investigation of further episodes of self harm and abuse in off shore detention facilities and full public disclosure of existing evidence of abuse and self harm gathered from former and current staff working at these facilities.

G. Attempts by the Commonwealth Government to negotiate third country resettlement of asylum seekers and refugees,

The Australian government has been attempting to find a fourth country resettlement for the individuals found to be refugees on Nauru and PNG for four years. This will continue to be a significant challenge in the global context of 65 million displaced persons worldwide, which is a crisis beyond that seen during World War II. Currently there is no guaranteed due process for settlement through offshore mechanisms.

In this global environment, the Australian government's continued attempts to negotiate fourth country resettlement, causes indefinite delay to safe settlement and psychological recovery. The length of time in detention and persistent living in uncertainty, as discussed above, is directly proportional to risk of psychological harm. This continued delay denies people seeking asylum on Nauru and PNG integration into normal life, impacting their long-term psychological recovery and, critically for children, normal development. From a health and a human rights perspective, this situation is unsustainable, unethical and unjust.

H. Additional measures that could be implemented to expedite third country resettlement of asylum seekers and refugees within the Centres, and

The RACGP has observed that continued focus on third or fourth country settlement in the current global context delays psychological recovery and may do unrecoverable harm to the most vulnerable, in particular to children seeking asylum. In the current international refugee crisis, ethical and fair settlement options must be expedited as a matter of urgency. Considering the current context, options must include the Australian mainland for refugees detained in Nauru and PNG.

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