

PROTECTION DENIED, ABUSE CONDONED: WOMEN ON NAURU AT RISK

AUTHORS:

Wendy Bacon, Pamela Curr,
Carmen Lawrence, Julie Macken, Claire O'Connor



**“ I went inside.
Dogs came in too.
Man took off all his
clothes and showed
me his private parts.
I wet my pants and
soiled my pants.
This is reason I left my
country – this fear of
rape – I see it happen
to many. Then he said
I don’t care and hit my
face very hard.
He said dogs will kill
you if you don’t suck
my private part.
Then I have
no choice.”**

[Woman refugee on Nauru]

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TITLE: Protection denied, Abuse Condoned:
Women on Nauru at Risk
ISBN: 978-0-646-95750-0



PUBLISHED: June, 2016
PROJECT DIRECTOR: Julie Macken
AUTHORS: Wendy Bacon, Pamela Curr,
Carmen Lawrence, Julie Macken, Claire O'Connor,
Sections on Broadspectrum and Wilson security:
Claire Parfitt

EDITOR: Monica Crouch
DESIGNER: Brian Crouch
PUBLICIST: Luisa Low and Julie Macken

Protection denied, Abuse Condoned: Women on Nauru at Risk is a project published by Australian Women in Support of Women on Nauru, an organisation formed in 2015 to research and campaign against the detention and abuse of women on Nauru.

WEBSITE: <http://www.awswon.org/>

FACEBOOK:
<https://www.facebook.com/AWSWN/?fref=nf>

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COVER GRAPHIC: Women in the single women's camp held a peaceful protest over their treatment and were then taken to Nauru jail and held in these conditions. March 2015

PREFACE

On 22 August 2015 this headline ran in *The Saturday Paper*, a national newspaper in Australia – “Nauru rapes: ‘There is a war on women’”.

The situation for refugees and asylum seekers had been getting worse in Australia’s detention centres out in the Pacific region, but this headline pointed to a unique form of abuse: women were being routinely abused, raped and doomed to spend the rest of their lives on a tiny island nation, often alongside the perpetrators.

“Mary” (not her real name) was 24 years old when she found herself and her family on the wrong side of the timeline when the Gillard Labor government reopened the Pacific detention centres in 2012. In May 2015, she decided to use her day release to visit a refugee friend who was living in the community on Nauru. Her mother and brother became concerned when she failed to return by the evening curfew and her brother began a frantic search for her, assisted by some guards.

She was not found until 9pm that night. The local police discovered her slumped beside the road outside the detention centre. She was deeply traumatised and bruised, with bite marks over her body. She had clearly been the victim of a serious sexual assault.

The police put Mary in a car and drove around the island for about 45 minutes as they watched a fireworks display. Then, rather than taking the obviously battered young woman to hospital and

notifying her distraught family, they took her to the police station. Once there, they questioned her and attempted to get a statement from her. She was mute with trauma and in no condition to give a statement, but nevertheless the police persisted. She was eventually labelled as being non-compliant. Despite the obvious evidence of sexual violence, the police did not register this as an assault nor attempt to take any forensic evidence from her.

Mary was finally taken to the International Health and Medical Services (IHMS) where she was examined. The IHMS is a clinical service for the health and treatment of asylum seekers within the detention centres paid for by the Australian government.

Meanwhile, as they waited for news her mother and brother were put in isolation in the detention centre. The police didn’t tell Mary’s family she had been found until 11pm – two hours after she had been located.

Then there is “Sophie” (again, not her real name), a 26-year-old woman released from the camps to live in the community on Nauru. In April 2015 she was waiting at a bus stop when a car pulled up beside her. The bus wasn’t coming, the men said, and if she waited at the stop she would fall prey to “dogs that eat humans”. They offered her a lift.

“So I told myself that the driver might say truth, so I said OK,” Sophie said. “But when they arrived where they want, they said ‘get out of the car’. I understand what they want. It was one man who wants to rape me, that is why they told me to get out of the car. The other man – I don’t know where

1. thesaturdaypaper.com.au/news/immigration/2015/08/22/nauru-rapes-there-war-women/14401656002263

he has gone. Only one man left with me. I tried to beg him but that was impossible. What he want he got it from me.”¹

These stories – and many others like them involving women and children in the detention centres complaining of sexual assault and abuse – were a catalyst for action. The mounting evidence of a pattern of systemic assault and rape of refugee women on Nauru was emerging. At first it was the stories of assaults inside the camp by both local men and Wilson Security staff, from women brought to Australia for medical and psychological care which alerted us to the horrors of life in the Australian-run centres. From April 2015 the phone calls from distressed women living outside the camp detailed a pattern of rape and abuse in the Nauru community that could not be ignored.

As some of the women became pregnant through rape, there was an urgent need for medical attention that was not available on Nauru. The authors of this report formed a group, *Australian Women in Support of Women on Nauru* (AWSWN), and began fundraising to send some of their members to Nauru on a fact-finding visit. Within weeks, the Nauruan government responded by announcing that foreign journalists would not be permitted onto the island.²

It is clear the Australian government is determined to place the plight of asylum seekers beyond the reach of the international media and civil society, and therefore as invisible as possible. For this reason, AWSWN committed to bringing the story of Australia’s treatment of women on Nauru to the international community. It is the story of women, many young and travelling on their own, who sought asylum and safety in Australia. Instead, they were put in detention on an island where they are being humiliated, assaulted and raped; where they watch their children collapse under the burden of despair and hopelessness; and where their children too are exposed to sexual assault.

None of this will come as a shock to members of the Australian Parliament. Letters and photographs detailing the attacks on women have been sent to every Member of Parliament and Senator. They know what is happening on Nauru. The then Minister for Immigration, Scott Morrison, sent Philip Moss, a former Commonwealth Integrity Commissioner to investigate. His report confirmed that assaults and rapes were occurring and not being reported out of fear of reprisals.

Ample evidence of the likely damaging impact of indefinite detention and lack of adequate health facilities on detainees was readily accessible when Labor reopened Nauru. For example, an Oxfam Report³ published in 2007 painted “a shocking picture of psychological damage for the detainees” including mass hunger strikes, multiple incidents of self-harm and widespread depression and other psychological conditions.

Those who had experienced the harsh conditions of indefinite detention on Nauru suffered deep depression and feelings of helplessness for years afterwards.”⁴ There were other equally damning reports. The mainstream media largely failed to remind the public or politicians of this evidence during the events that led up to the decision to reopen Nauru.

Since 2012 both the major political parties – Labor and the Liberal National Coalition – have supported a brutal policy that:

- commits to detaining offshore indefinitely people who arrive by boat
- refuses to process their refugee claims in Australia, and
- mandates that those ultimately found to be refugees will not be permitted to settle in Australia.

These offshore processing centres are housed on the impoverished islands of Nauru and Manus Island (a province of Papua New Guinea). The policy involves a failure to provide appropriate medical treatment and housing and exposes those

2. abc.net.au/news/2015-10-29/nauru-rejects-calls-for-greater-access-for-australian-media/6895174

3. <http://resources.oxfam.org.au/filestore/originals/OAus-PriceTooHighAsylumSeekers-0807.pdf>

4. Oxfam report 2007, page 3

detained to violence and sexual abuse – and all of this in the name of deterring asylum seekers from coming to Australia. Both major parties support laws that gag those who report what happens on Nauru with the threat of two years' jail. Reports of the systemic pattern of abuse of women and children have been deflected by attacks on the credibility of victims, staff and witnesses. Successive Ministers have blamed advocates for exposing the abuse. These denials have proceeded at the same time as a separate Royal Commission has exposed the cover ups and abuse of children in Australian institutions and bipartisan political support for a campaign to end violence against women.

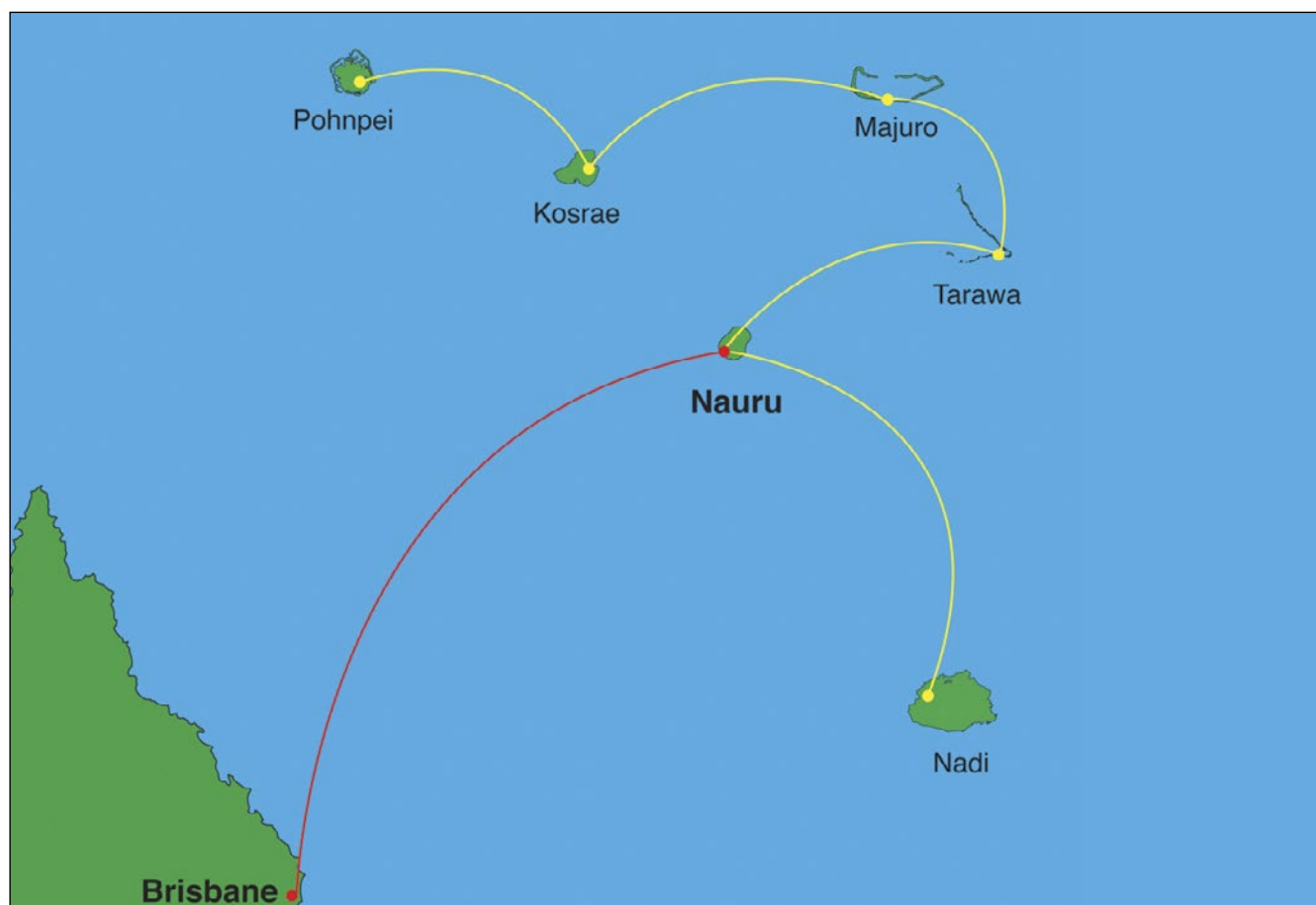
The Australian Greens, some smaller parties and many groups in civil society support the closing down of detention centres on Manus Island, Nauru and the harshest Australian remote detention centres including Christmas Island.

The centre on both Manus Island and Nauru is

deteriorating at the time of writing, and refugees and asylum seekers have been peacefully protesting on Nauru for 74 days. The situation on Manus Island is under a cloud since the The Supreme Court of Justice of Papua New Guinea found that Australia's detention of asylum seekers on the island breached the right to personal liberty in PNG's Constitution.

Currently there are no refugee women on Manus Island. Although both women and children were detained there in appalling conditions in 2012 to 2013, the focus of this report is on the conditions surrounding the detention of women on Nauru. While all those detained indefinitely on Nauru are exposed to trauma and discrimination, this report focuses on women asylum seekers who are subject to specific gender-based forms of discrimination and violence.

Without international and national pressure demanding change, this situation will continue to cause serious harm and destroy the lives of innocent women, children and men.



OVERVIEW

On 12 August 2013 Air Chief Marshall Angus Houston flanked by Paris Aristotle and Professor Michael L'Estrange, who together comprised a so-called Expert Panel, announced a policy of "No Advantage" in which all asylum seekers arriving in Australia by boat would now be transferred to Nauru and Manus Island in Papua New Guinea. There they would wait for an unspecified time for their claims to be processed. This heralded a return to the Pacific Solution of 2001 that saw 1637 people taken to offshore camps. Eventually 61 per cent (705 people) were resettled in Australia. The Nauru detention centre was closed in February 2008.

About 303 women were sent to Nauru. In this group were 117 women who had no family and who were travelling alone. Many women had children and babies. The women and children and families initially sent to Manus Island were removed in July 2013 because it proved too dangerous. The people on Nauru were told in July 2013 that they would never be resettled in Australia. They were granted 5 year then 10 year visas with no assurance as to what their future holds.

Stories of the sexual assault of women on Nauru both in the camps and in the community have been told in horrified whispers to trusted people. They are backed up by reports of shocking incidents. Women and children are regularly exposed to sexual humiliation and harassment within the camp as they live in tents without privacy and are subjected to intrusive body searches with scanners by male security personnel. The very infrastructure

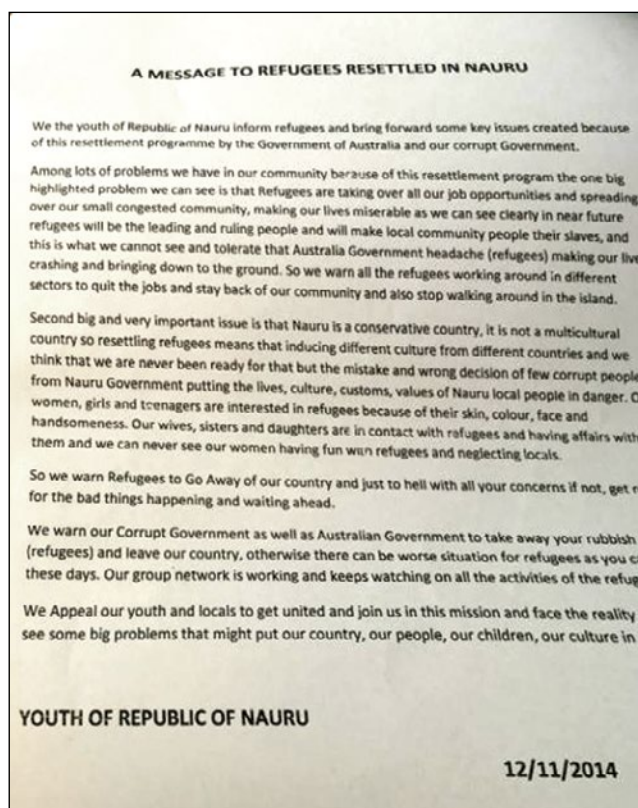
of the camp leaves women open to physical abuse including rape and a fear of retaliation if abuse was reported. The flimsy showers and toilets on rough stone walkways, the lack of water for basic cleanliness, the distance between tents and facilities and the lack of lighting for safety have been documented in reports but not acknowledged by government or opposition. The heat, the flies, the vermin in vinyl tents make life unbearable for these women.

This report details how women released as refugees into the Nauru community face grave danger from attacks on isolated bush tracks. They have been raped, bashed and even burnt as they scurry from their demountable cabins to the market for food. The resettlement infrastructure for single women consists of isolated cabins in the bush, which has left them open to attacks and rape by local men. This report draws together the evidence from multiple reports on the resettlement policy as well as the intimate stories of women living in fear on an island where neither the local police nor some of the commercial agencies charged with protecting them have shown much desire to do so.

The placement of four Australian Federal Police officers on Nauru has seen no improvement in protection for women. Real concerns about the failure of the Nauru police to investigate and charge perpetrators means there is little likelihood that the women will be protected on the island or that perpetrators will be punished for their crimes.

The physical layout of both centres on Nauru,

Regional Processing Centre 2 (RPC 2) and Regional Processing Centre 3 (RPC 3), create an environment in which the risk of sexual assault is present: the contract arrangements with private service providers; the lack of privacy; the mounting tensions between asylum seekers and the local Nauruan community; the lack of any adequate external oversight; and the failures of the police and justice systems on the island mean women and children are more vulnerable than at any time in the 17-year history of detention centres operated both on and offshore by the Australian government.



Reflection of mounting tensions on Nauru.

The plight of women on Nauru is clearly critical. Despite detailed evidence of sexual assault, particularly pregnancies resulting from rape, the Australian government refuses to recognise the essentially unsafe environment on Nauru and to

move refugees and asylum seekers to a secure environment. Instead it deliberately continues to expose vulnerable women to the threat of rape and other forms of sexual assault, humiliation and trauma on Nauru. It is clear from the evidence that removal from Nauru to safety is the only solution to the widespread violence towards these women.

The history of Nauru, its trauma through a colonial past and brutal invasion through two world wars and the effect this has had on the island and its people is little discussed or known. This report details this history and Australia's role in it to understand the current crisis of failed democracy and judicial independence which affect the lives of the local people as well as the refugees dumped in their midst. Corruption is endemic. There are a number of reports on the Nauru offshore policy detailing the problems and the enormous costs of this government and opposition-supported policy, which is designed to be so punitive and harsh that no one will want to come to Australia to seek protection.

Nauru is now a black site, with access to the island denied to the international media – with the exception of News Corporation reporter Chris Kenny. There is inadequate auditing or monitoring of events on Nauru. In an extraordinary development in September 2015, the United Nations Special Rapporteur on the Human Rights of Migrants, Francois Crepeau, cancelled a visit to Nauru because the newly introduced Australian Border Force Act 2015 (the Act) would have made it too difficult and risky for staff in the centres to report to him.⁵ Mr Crepeau said in a statement that the Act, which makes it a crime for immigration and border protection workers to disclose information about offshore detention centres, “serves to discourage people from fully disclosing information relevant to my mandate”.⁶

In 2015, the principal contracted service provider, Broadspectrum, reported that 30 formal allegations of child abuse, 15 allegations of sexual assault or

5. Section 42 of the Act says a person commits an offence if the person is an entrusted person and the person makes a record of or discloses information and the information is protected – the exceptions being where disclosure is necessary for employment, authorised or permitted by a Court or where there was consent to the release of the information, or where the entrusted person reasonably believes that the disclosure is necessary to prevent or lessen a serious threat to the life or health of an individual and the disclosure is for the purpose of lessening the threat. Further, the Act enables a person to disclose information already in the public sphere.

6. ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16503&LangID=E

rape, and four allegations relating to the exchange of sexual favours for contraband had been made against staff.⁷

Wilson Security provided details of 11 cases in which staff were terminated for misconduct including inappropriate relationships, alleged sexual assault, sexual harassment, excessive use of force toward an asylum seeker, trading in contraband including for sexual favours, and throwing a rock at an asylum seeker.⁸

Women in Support of Women on Nauru believes these figures disclosed by service providers are just the tip of the iceberg. Official inquiries have established that women on Nauru have underreported incidents of sexual assault, partly for fear of retribution and a lack of confidence that allegations will be investigated properly. With access to the island denied to the media and civil society, there is little support for victims or independent oversight.

The Australian government is well aware that asylum seekers are at times fleeing rape, sexual abuse and discrimination. But the government has ignored this and chooses to send these asylum seekers to a country where they are not only exposed to further trauma and assault but there is also a lack of specialised women's health services, counselling and trauma services and rape centres. Likewise they are aware that domestic violence on Nauru and a lack of support services is a major cause for concern. They deliberately expose asylum seekers many of whom have fled abuse and discrimination to further sexual abuse.

The Australian government has brought asylum seekers to Australia for medical treatment from both Nauru and Manus Island. This includes terminations for women who have been raped and for women who have self-harmed or threatened to do so following sexual assaults. The government is now transferring women to Papua New Guinea for treatment including pregnancy terminations even though this is illegal in PNG and exposes the woman to risk of prosecution.

As the international community wrestles with the problem of millions of refugees moving through Europe, the "Australian Solution" is considered by some less-enlightened nations as providing a possible option for the containment of people fleeing the war in Syria and other Middle Eastern and African states. This report details the lived consequence of this policy on women who fled persecution, only to face further persecution on Nauru. From the perspective of anyone who respects human rights and protection from torture, the "Pacific Solution" is no solution at all.

While sexual assaults including rape expose women to severe physical and emotional trauma, these are only the most violent reflection of a daily reality in which women are denied privacy on a routine basis and forced to live in unsafe conditions and without adequate health facilities.

Even when they are living on Nauru outside the detention centre, women report feeling exposed and insecure. The environment is one in which intimidation and fear dominate. Constant feelings of insecurity and exposure lead to depression and feelings of helplessness and further risk long-term physical and psychological damage.

Nauru is no place for women seeking asylum or for women resettled as refugees. There is no protection in this place and abuse is condoned.



Isolated, unprotected housing for young, single women

7. Questions taken on notice by Transfield Services at the hearing on 19 May 2015, Part 2 (this is a PDF downloadable by searching this reference).

8. (previous page) www.aph.gov.au/Parliamentary_Business/Committees/Senate/Regional_processing_Nauru/Regional_processing_Nauru/Final%20Report/c02, paragraphs 2.52, 2.53, 2.54.

INCIDENT UPDATE

In the nine months since the group was formed, the following incidents have occurred on Nauru:

THE CASE OF ABYAN

In September 2015, a young Somali woman, “Abyan” (not her real name), was raped on Nauru, and became pregnant as a result of that rape. Abyan had been asking for an abortion since she knew she was pregnant; however, abortion is illegal on Nauru. She was not flown to Australia until mid-October; once in Australia, the Minister for Immigration and Border Protection, Peter Dutton, determined that Abyan did not want to have an abortion, so before her lawyers could file an injunction against her return to Nauru, she was flown back.

After enormous public protest, Abyan was again flown to Australia. However, by this stage her choices were diminished because her pregnancy was so advanced.

Abyan found herself at the centre of an obscene tug-of-war between her advocates and the Australian government. As this report^{8a} by veteran journalist Tom Allard makes clear, Abyan became collateral damage in the fight between the Australian government and the reality of life on Nauru.

Abyan’s plight was so manifestly unjust that her story began what has become a nationwide protest against the Australian government’s brutal detention regime.

As The Guardian reported on 28 October 2015:⁹

Abyan fled her home in Somalia in 2007. She was 15, and her country was caught in a brutal civil conflict between the government and the Islamist terrorist network al-Shabaab. She survived the rocket attack that struck her home and killed her family. She fled.”

“Her journey was ad hoc and inchoate. Eventually she found a people-smuggling network that could get her to South-East Asia and, from there, a place on board a boat to Australia.

Abyan arrived in Australia, on Christmas Island, on 21 October 2013. She was taken to Nauru two days later. A little more than a year later, in November 2014, Nauruan authorities determined she was officially a refugee: that is, she has a well-founded fear of persecution in her home country and could not be returned there.

Abyan was moved into accommodation “in the community”, outside the detention centre on Nauru. But life in the community, while better than detention, is hard. Abyan is alone. She is poor, food

8a <http://www.smh.com.au/federal-politics/political-news/prisoners-island-offers-little-hope-for-new-life-20151022-gkggkx.html>
9. theguardian.com/australia-news/2015/oct/28/this-is-abyans-story-and-it-is-australias-story

THE CASE OF ABYAN

is expensive and the market a long way from where she lives. And she is fearful.

On 18 July 2015, Abyan says she was raped by an unknown man. By September she was asking to go to Australia to have a termination – Nauru does not allow abortion. Her request was not acted on for another five weeks. She was brought to Australia on a scheduled commercial flight on 11 October.

Once in Australia, Abyan was again held in a detention centre. She was asked if she wanted to have a termination. Abyan is clear that she asked for a little time to feel better – she had lost a lot of weight on Nauru – so she could go through with the termination. After daily questioning, Immigration Minister Peter Dutton had Abyan flown back to Nauru accompanied by six guards.

After Abyan was returned to Nauru she was questioned by police. She was also questioned by journalist Chris Kenny of The Australian newspaper. Kenny is the only Australian reporter to have been allowed into Nauru. Following these approaches to Abyan, Dr Louise Newman, Professor of Psychiatry at the University of Melbourne, issued this statement on 21 October 2016:

The treatment of a 23-year-old pregnant rape survivor from Nauru highlights the profound lack of understanding of the psychological impact of rape and trauma. Blaming the victim – assuming that she is misusing the system to come to Australia and is not “genuine” in her request for a termination does nothing to help us understand her torment and respond in a compassionate way.

Rape is a significant psychological trauma. Pregnancy as a result of rape is always confusing for the woman, who is often unclear about how to proceed and deeply troubled. We know that this young woman, Abyan, has been distressed and withdrawn, not eating and has been suicidal. She has been asking for a termination since around four weeks into the pregnancy. She has not been responded to until around 14 weeks

and the question of how to proceed has become even more complicated. She is still distressed and has stated that she needs time to consider her options. She requests counselling and this has not been provided. Instead she is blamed for her indecision and seen as misusing a care system.

This response on the part of government sets women’s rights back 50 years to a time when rape victims were dismissed, denigrated and belittled, with huge social and psychological consequences. To treat any woman in this way is wrong, and this is magnified when we treat a vulnerable and powerless refugee with such contempt.

From a mental health perspective, this young woman is in urgent need of clinical assessment and care. She needs specialist sexual assault trauma counselling and time to consider her options.

The decision about whether to proceed with the pregnancy is hers alone and needs to be made with full support and awareness. Disclosure of her medical details and private information in the media is inappropriate.

The risk of not providing mental health support is significant and she has already been despairing and suicidal about her situation. Blaming and shaming by government ministers is something we should never sanction. The prospect of becoming a parent on Nauru, let alone the difficulties of parenting a child who is a product of rape, is extremely high risk and should not be ignored for some perceived greater political need.

Compassion for rape survivors is a core Australian value. It has been hard fought for and needs to be protected. Respect for all women regardless of their visa status is a social responsibility and standing in opposition to any violence towards women is at the heart of this issue.

THE CASE OF ABYAN

Dutton said Abyan was afforded medical care while in Australia but that after extensive consultation she decided she did not want to terminate her pregnancy. “We’re talking about four or five days of medical consultations and all through that period we had interpreters present, mental health nurses, GPs, doctors ... At the end of it the advice to us was that she had decided against the abortion,” Dutton said.^{9a}

Abyan says this is untrue. “I was raped on Nauru,” she said in a written statement obtained by the Sydney Morning Herald. “I have been very sick. I have never said that I did not want a termination. I never saw a doctor. I saw a nurse at the clinic but there was no counselling. I saw a nurse at Villawood but there was no interpreter.”¹⁰

After being held on Nauru for another week, Abyan was again flown to Australia, though by this stage the pregnancy was progressing and it was not clear whether Abyan was still able to have a termination.

The United Nations High Commissioner for Human Rights spokesman, Rupert Colville, condemned the official response to sexual assault victims on Nauru and said Abyan should urgently receive an abortion if she wanted one.¹¹

Mr Colville said the organisation has been in direct contact with Abyan, who is mentally and physically fragile and “deeply traumatised by her experiences since the day of the alleged rape”.

“She has refused to give information to the Nauru police about her attacker because she is understandably afraid of reprisals,” Colville said in a statement. “She does not feel safe, given that her alleged attacker lives on Nauru, which is a very small island state with a population of around 10,000.”^{11a}

Later, human rights lawyer Kellie Tranter published an extensive article based on documents that she had obtained through freedom of information. She wrote:

Documents about her case (Abyan) obtained under Freedom of Information (FOI) laws now reveal how the Department of Immigration and Border Protection (DIBP) and the Minister for Immigration and Border Protection, Peter Dutton, misled the public by omission. In a press release dated 17 October 2015, Minister Dutton accused legal advocates for Abyan of fabrications, political agendas and lies.

In that same press release, Minister Dutton stated: “The woman has decided not to proceed with the termination.”

That assertion was far too general, unqualified and patently incorrect according to the information known to his department. Yet it’s not the first time Minister Dutton has used extreme yet ambiguous language to describe the intentions of those seeking to protect human rights only to be caught wrong-footed courtesy of the actions taken by senior bureaucrats in his department.

...

Presumably because the background information [the FOI documents] has not so far been available, there has been no call for a formal explanation of why the DIBP and Minister Dutton misled the public about Abyan’s wishes. Nor has the Minister been asked why Abyan wasn’t given an opportunity to liaise with her lawyers before she was transferred back to Nauru on 16 October 2015, or how and in what circumstances she was made aware that she was to be returned.

These are questions that need to be answered so that the public has a reliable account of how she was treated by those who represent us.

9a. theguardian.com/australia-news/2015/oct/28/this-is-abyans-story-and-it-is-australias-story

10. www.smh.com.au/federal-politics/political-news/refugee-rape-victim-says-immigration-minister-peter-dutton-is-telling-lies-about-abortion-20151018-gkc21y.html

11. www.smh.com.au/federal-politics/political-news/un-human-rights-agency-urges-decency-from-australia-and-nauru-over-alleged-rape-victims-20151027-gkkcai.html

11a. ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16657&LangID=E

THE CASE OF ABYAN (CONTINUED)

And given the many disconcerting actions – including bribing people smugglers – and public faux pas of the DIBP in the short time since its inception, on top of its participation in this apparent “misinformation”, a formal investigation into the DIBP by an independent body with power to access all relevant information, like a Royal Commission, is already overdue.

Tranter’s documentation and call was ignored by the Australian government.¹²



Minister for Immigration and Border Protection Peter Dutton.

THE CASE OF S99

In March 2016, a young African woman refugee known only as “S99” was raped on Nauru in the midst of an epileptic seizure and became pregnant. She asked to come to Australia for a termination and was instead sent to Papua New Guinea, where abortion is also illegal, except for the preservation of the mother’s life. As a result of her epilepsy and other health issues, this procedure was particularly complex.

In May 2016, the Federal Court of Australia found that the Australian government had failed to fulfil its duty of care to S99, a “vulnerable woman in desperate circumstances”.

This account of the case is drawn from Justice Mordecai Bromberg’s judgement. The name of S99 and details of her birth country and other personal details were suppressed by the court.

S99 is a young African woman who, at the age of 16, witnessed her sister being murdered. Soon afterwards, she began to suffer seizures. Around this time, her father had arranged her marriage to a 45-year-old man who had other wives.

According to the judgement, she has said she was

beaten and sexually and emotionally abused by her first husband. She described the marriage as “very bad”. After several years and when pregnant with her first and only child, S99 ran away to where her mother lived. Her only child was born there.

Her mother arranged her divorce from her first husband. The applicant met and married a second husband about two years later. Her second marriage was better but her first husband tried to force her to return to him. He accused her of adultery and threatened to inform the government of the country (name suppressed by the Federal Court) in which she lived. Fearing that she would be killed by stoning, she fled, leaving her son with her mother.

She sought refuge in Australia, where she thought she could be safe by travelling to Indonesia then by boat to Australia. She was detained on Christmas Island until she was transferred to Nauru where she lived in a tent in the detention camp. From late 2013 on, she sought help for mental health problems. In 2014, she was found to be refugee.

After being found to be a refugee, she had to leave the detention centre. She moved into a house with eight other women. She found life in the house very

12. <https://independentaustralia.net/politics/politics-display/abyan-turnbulls-stumbling-start-to-2016-as-foi-docs-reveal-he-and-dutton-misled-australian-public-,8535>

THE CASE OF S99 (CONTINUED)

difficult, particularly because the accommodation was not secure. Thieves entered and stole the refugees' belongings. As a result, S99 moved to another hut where security guards were provided but were ineffective because they were "always drunk". A refugee who had fled from danger, S99 now felt even less secure.

S99 often has seizures. She has little or no memory of what happens at these times.

On January 31, she stepped outside her accommodation to make a phone call. She had a seizure and, while unconscious, she was raped. She knew she had been raped when she discovered blood and "male discharge" on her body. She immediately reported the rape and no one, including Australian government officials, has disputed the fact that she was raped.

From the time she discovered she was pregnant, S99 wanted to terminate her pregnancy. IHMS staff who treated her on Nauru found that she suffered from post-traumatic stress disorder as a result of the rape and pregnancy. One report noted that she was suicidal and had attempted to drown herself.

Abortion is illegal on Nauru. S99 has high medical needs but instead of flying her to Australia or even to a third country such as Singapore or New Zealand where facilities are available, the Immigration Minister Peter Dutton, flew her to a clinic in Papua New Guinea, where abortion is also illegal unless the life of the pregnant woman is at risk. The Minister took this action in the face of extensive medical advice advising him that S99's medical needs could not be met in PNG.

On 7 March 2016, S99's solicitor, the National Justice Project's Mr George Newhouse, had emailed the Chief Medical Officer and Surgeon General of the Australian Border Force, Dr John Brayley. He attached a video and informed Dr Brayley that as S99 was "at risk of serious injury. She is fitting regularly and cannot safely even cook for herself because she has fittted in the middle of cooking with the potential for a fire and burns. ... She requires urgent trauma and psychological care, an

assessment by a neurologist in relation to her fits and this should take place in Australia."

The IHMS, which provides medical services on Nauru, agreed with this opinion and repeatedly asked the Minister to send S99 to Australia, warning him that she faced serious long-term health and psychological consequences if she were unable to have her pregnancy terminated. The risks would only increase if her termination were delayed. The government instructed IHMS not to concern itself with the legality of abortion in PNG.

The court found that S99 did not give her informed consent to be taken to Port Moresby in PNG. While she was there, she stayed in a hotel where food was delivered by staff of security firm Wilson Security, who had a key to her room. She continued to suffer acute distress, especially when she heard that her friend "Omid" had self-immolated and another friend "Hadon" had attempted to self-immolate on Nauru.

The Minister was advised by the First Assistant Secretary of the detention services division of the Australian Border Force, David Nockels, whose previous experience is in investigating customs and drug offences. Rather than accept the advice of five medical experts, he preferred the advice of a single doctor in PNG who advised that he could perform the operation safely. During the court case, it was revealed that this doctor had a financial interest in the private hospital where the operation would be conducted.

S99's lawyers took action first in the High Court of Australia then the Federal Court to stop the abortion taking place in PNG. The Australian government's determination for her to have the abortion in PNG meant she was already 12 weeks pregnant by the time her case was heard. This was exactly the unnecessary delay against which doctors had been warning.

The government did not dispute that the applicant suffered mental harm as a result of being raped and admitted she would suffer further mental harm so long as she remained pregnant.

The court considered the advice of a number of

THE CASE OF S99 (CONTINUED)

expert medical specialists who all agreed that the abortion should not take place in PNG.

The Director of the Centre for Women's Mental Health at the Royal Women's Hospital and Professor of Psychiatry at the University of Melbourne, provided evidence that S99's presentation was "consistent ... with a diagnosis of acute stress response given the severe nature of the trauma that she has experienced". She said that it is "likely to become an emergent chronic post-traumatic stress situation" and that S99's emotional responses to her pregnancy are "likely to be complex." She said that "culturally sensitive and informed workers familiar with these procedures in the cultural context" should engage with and counsel a woman in this situation.

High-level expert psychiatric opinion and support should be available during both assessment for the procedure and recovery. Without such support, Professor Newman said there would be a risk of negative responses, including ideas of self-harm and even suicide.

In Professor Newman's opinion it was possible that a woman in the circumstances of S99 "could develop extreme psychiatric symptoms including dissociation, panic and high-level anxiety, and in extreme cases psychotic symptoms, requiring admission to a psychiatric facility". She said to her knowledge appropriate support was not available in PNG but was available in major hospitals in Australia.

Another Professor of Obstetrics and Gynaecology at the College of Medicine at James Cook University, Caroline da Costa, agreed with Professor Newman's assessment. Yet another specialist, Dr Miriam O'Connor, found that "a transcultural psychiatric team" would be considered fundamental in most Australian pregnancy advisory services given the circumstances of a woman who had experienced gender-based violence and pregnancy. She said there was a significant gap in such services in PNG.

Nockels read all the evidence of these medical experts but continued to advise the Minister that there were no "exceptional circumstances" that warranted taking S99 to Australia or a third country. The Minister also argued that even if he did owe

a duty of care to S99, the court could not issue an order preventing the abortion in PNG. The only solution would be for the abortion to proceed, leaving S99 with the only option of later suing for damages. The court overruled this argument.

Justice Bromberg found that an abortion represented significant risks for S99 because of her neurological condition, her poor mental health and the physical and psychological complications caused by a cultural practice to which she had been subjected as a young girl.

Since S99's arrival in Australia in 2013, the Minister had been completely responsible for her care as she had no independent means. He had failed to fulfil his duty of care by exposing her to a legal risk of being prosecuted for having an abortion and high-to-extreme medical and mental health risks by flying her to PNG, and that a reasonable person would not have exposed her to these risks.

However, Justice Bromberg's findings did not mean Minister Dutton had to bring S99 to Australia for the procedure. Other countries with the necessary medical experts and equipment could also be appropriate. However, Justice Bromberg found that S99 was in a state of "agitation and vulnerability" and that she would deteriorate further if a "timely resolution" were not found.

The Minister did not appeal against the judgement, declaring it to be based on the "narrow circumstances" of one case.

The director of the National Justice Project, Duncan Fine, told Guardian Australia he hoped the court's finding would mean no other woman would have to endure what S99 had. "Everything the government has done up to now has really been designed to obstruct her getting the very best and safest medical attention," he said. "Any apology that came right now would be a cheap and polyester gesture. We have a federal court judge who has now very clearly said this treatment of her is not acceptable. We now need to ensure she gets the highest quality care."^{12a}

S99 has been transferred to Australia for medical treatment and is currently in hospital.

THE CASES OF OMID AND HADON

On 26 April 2016, Omid, a 23-year-old Iranian man detained on Nauru, set fire to himself during a visit by United Nations officials. He was taken to Nauru hospital but not airlifted to Australia until the next day. He died in Brisbane hospital on 29 April.

Footage of Omid setting himself alight shows a man in great distress and without hope. He had been told there was no prospect of ever being settled in Australia. Omid's wife bitterly complained about the delay in receiving emergency medical treatment. She was flown with him to Brisbane where she said that she was held incommunicado and sedated.

Omid's tragic death caused deep trauma among detainees on Nauru.

Sydney Morning Herald reported that a former Australian teacher on Nauru, who once taught the victim, described her as "a kind woman, a good friend and would never harm anyone ... Hadon used to come to English classes at night because she was too shy to come in the normal day classes." The former teacher, who did not wish to be named was quoted as saying: "Gradually, in her gentle voice, she told us tragic pieces of her past in Somalia. She wanted to learn, she longed for a future."¹³

Hadon had spent nearly three years on Nauru before she was brought to Brisbane for head injuries received in an accident. After six months, she was



Refugees and asylum seekers on Nauru protest after the death of their friend Omid.

On 3 May 2016, a 19-year-old Somali woman, Hadon, also attempted to self-immolate on Nauru, suffering critical injuries. She was airlifted from Nauru to Australia. She remains in a serious condition. The

dragged screaming by her arms and legs and from the Brisbane Immigration Transit Accommodation and flown back to Nauru. She had already attempted suicide once before she attempted self-immolation.

12a. theguardian.com/australia-news/2016/may/10/peter-dutton-will-not-appeal-ruling-pregnant-asylum-seeker

13. www.smh.com.au/federal-politics/political-news/reports-of-second-refugee-setting-themselves-on-fire-at-nauru-20160502-gokg9y.html#ixzz4AYjhHray

THE CASE OF THE YOUNG IRANIAN WOMAN

On 23 May 2016, a 21-year-old Iranian woman tried to commit suicide by locking herself in her family's refugee camp unit and setting it alight. She was rescued and was taken to hospital suffering from smoke inhalation. In early June, she was still suffering from severe depression and was still in the IHMS clinic on Nauru. A message from her husband said that his wife had suffered depression "for a long time", and had attempted suicide on other occasions. She had told medical service providers, IHMS that she intended to kill herself. "But no one paid any attention," he said.

AN AFRICAN WOMAN

On 13 March 2016, a young African woman was raped on Nauru. IHMS and Connect Settlement Services accepted she was raped.^{13a}

Her requests for secure housing have gone unanswered. This lack of secure housing is an ongoing issue for all the women on Nauru. She has not come out of her room since the rape.

She has attempted suicide once since the rape. Her medications – for depression and inability to sleep – are delivered to her by health provider, IHMS.

In May she went without food for more than two days before the service provider, Connect, decided to bring it to her.

At the time of writing she was out of drinking water and has been told to boil water if she needs it. We understand Connect acknowledges that the young woman is mentally unwell but has said it will not be delivering food or water to her so that she will "rebuild her life" in the community. She has asked to return to the detention centre where she feels safer than out in the community, but has been told this cannot happen.

FAST FACTS

- While the term refugee and asylum seeker are often used interchangeably, there is a difference:
 - an asylum seeker is someone who has arrived in a country other than their country of birth or "home" country to seek asylum
 - a refugee is someone who, under the 1951 UN Convention on the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees, is found to be deserving of protection and resettlement.
- The detention centres on Nauru house women and children who arrived in Australia by sea seeking asylum after 19 July 2013 and who the Australian government has declared will not have their claims processed in Australia, nor will they be allowed to settle in Australia.
- The detainees on both Manus and Nauru tried to come to Australia by boat and seek asylum under Australia's Migration Act.
- At the time of writing there were 1196 refugees and asylum seekers on Nauru and 292 in Australia who are under threat of being returned to Nauru. Of these about 117 are young, single women.
- Women and children were formerly held on Manus Island, under the same policy. However, the Australian government removed all families with women and children to Australia in July 2013, and from then on, all women and children arriving by boat were sent offshore to Nauru. In late 2014, there were 303 adult women, of which 117 were single adult females.

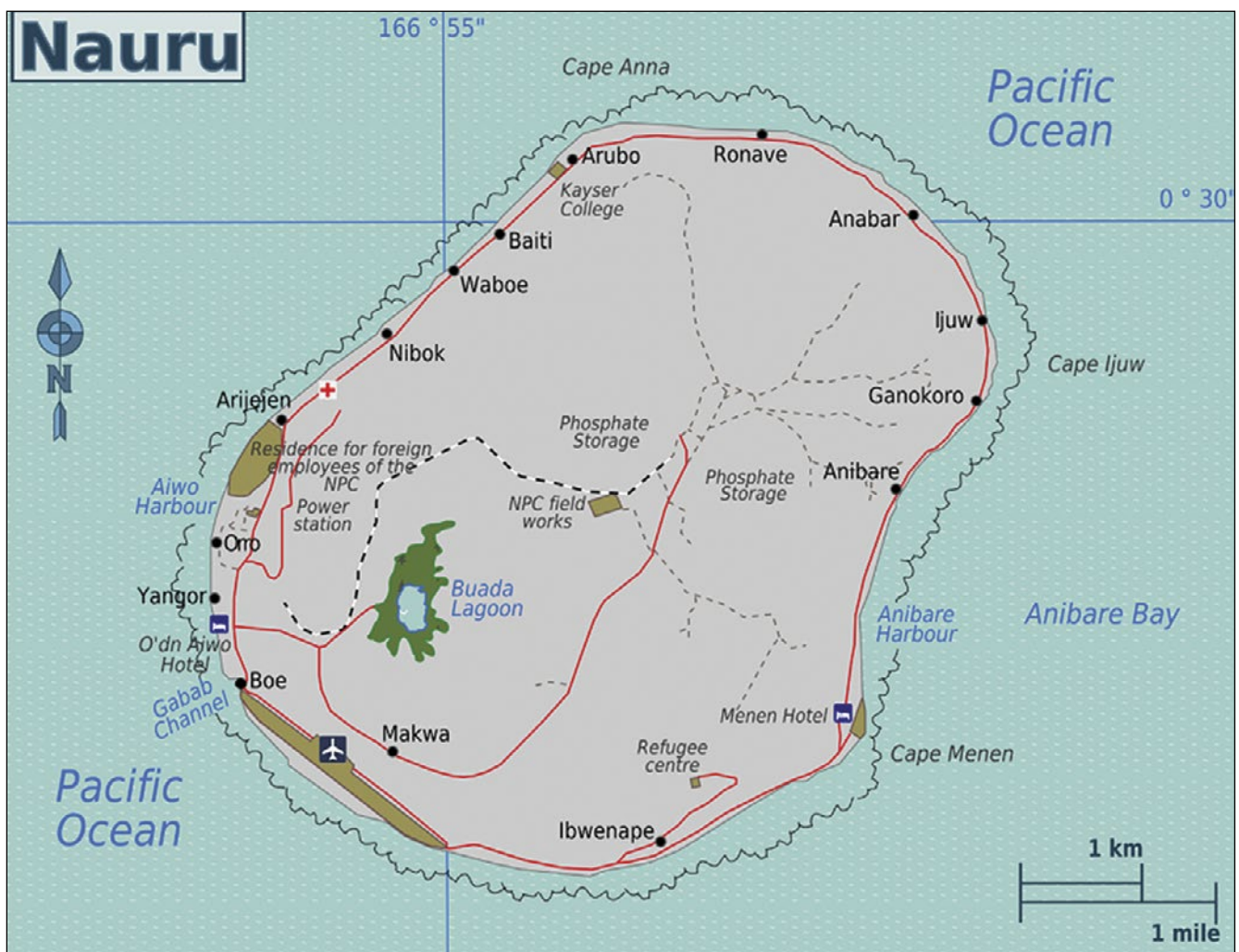
13a. Connect Settlement Services: mdaltd.org.au/what-we-do/

FAST FACTS

- Manus Island now holds in detention men who fall into the same category.
- The Supreme Court of Justice of Papua New Guinea – of which Manus Island is a part – has ruled that detention of asylum seekers and refugees breaches the right to personal liberty in the PNG Constitution.
- The detainees on both Manus and Nauru tried to come to Australia by boat and seek asylum under Australia's Migration Act (Cth) 1958.
- While Australian Women in Support of Women on Nauru does not have the records of all the detainees on Manus and Nauru, we know from those who came to Australia by boat in the past decade and who were processed via detention centres in Australia that it is likely that between 80 and 90 per cent will be found to be genuine refugees within the definition of the 1951 United Nations Convention Relating to the Status of Refugees and the 1967 United Nations Protocol Relating to the Status of Refugees and would satisfy the mirrored protections offered in the Migration Act.
- This means the majority of the detainees on Manus and Nauru would have arrived with histories of fear and persecution in their home countries and would have fled the dangerous conditions in those countries. We know that many are from Iran, Iraq, Syria and Sri Lanka. Some are from African states.
- Many women asylum seekers have fled situations of gender discrimination and sexual abuse.
- Nauru is considered by some countries to be a failed state; it continues to come under heavy criticism for silencing its media, arresting members of the opposition and deporting members of the judiciary who are not citizens of Nauru.
- Detention centres on Manus and Nauru are paid for, managed and controlled by the Australian government, not by those states and private contractors who enter into agreements with the Australian government. It is the Australian government that decides the conditions under which detainees are held within those centres and who shall remain there or, if very ill, will be brought to Australia for treatment. Even those brought to Australia are often returned to Manus or Nauru when their treatment is completed.
- When a detainee becomes very ill on Manus or Nauru, they may be brought to Australia for medical treatment; the Australian government's policy is to return them to Manus or Nauru after treatment.
- The Australian government has made it unlawful for those working on Nauru and Manus to disclose any information about the detention centres or the detainees.
- The government of Nauru refuses to grant visas to journalists and others it considers may be opposed to policies on Nauru.
- Since women and children have been housed on Nauru, horrific evidence has emerged of sexual and physical abuse. These crimes go uninvestigated, or investigation is so poor that rape and assault go unpunished and the women are traumatised by the process.

A BRIEF HISTORY OF NAURU

“Nauru is a story of power, exploitation, greed, and the selling of the future for short-term gain. It is the story of our own past, as well as what might very well turn out to be our future.”¹⁴



Nauru is a small island nation located in the central Pacific Ocean more than 4000 kilometres to the north east of Australia and 42 kilometres south of the equator. Its nearest neighbour is the even smaller island of Banaba in Kiribati, some 300km to its east,

and the nearest regional centres of any size are in Papua New Guinea and Fiji. Nauru's land mass is a single raised coral atoll 21 square kilometres in size, about the size of Melbourne airport.

14. McDaniel, C. & Gowdy, J. (2000), *Paradise for Sale: A Parable of Nature*, Berkeley: University of California Press.

UNDERMINING DEMOCRACY

Nauru's central plateau once contained rich phosphate deposits, but these have now largely been depleted as a result of 100 years of mining. The population numbers about 10,000 (excluding asylum seekers), a number many regard as unsustainable.¹⁵ Nauru is a republic and its executive government comprises a President and Cabinet, the members of which are chosen from an elected parliament of 19 members.

"The legitimate focus on the plight of refugees on Nauru has overshadowed the impact Australian policies have had on the host nation", close observer of Pacific affairs Nic Maclellan wrote in 2013. "Most reporting on Nauru ignores Australia's historic role as the administering power before independence in 1968."¹⁶ Nor, it might be added, does media coverage or political debate pay much attention to the onerous burdens that these policies impose on a small community already confronted with major economic and political problems.

In 2006, a professor of geography at the University of Sydney and keen scholar of Pacific affairs, John Connell, wrote of Nauru: "There is every indication that the state has comprehensively failed."¹⁷ He defines failed states as "those where the government cannot effectively govern and discharge the conventional bureaucratic functions of the state, such as providing security and delivering services, paying the wages of government services and having a functioning police and judicial system".¹⁸

Whether or not Professor Connell believes Nauru still fits this description, there is no doubt many of the difficulties that beset Nauru in 2006 are still in evidence today.

While Australia's regional processing centres have no doubt injected money into the community, they have also increased the cost of living for Nauruans and have added complex responsibilities, such as the processing of asylum claims, the education of refugee children, providing healthcare for a traumatised group of reluctant settlers, and the difficult task of dealing with violence and social conflict as a result of the new population. These demands on the state would test even the most well-resourced and ethical government.

COLONIAL ADMINISTRATION

Nauru was settled by seafaring Polynesian and Micronesian people about 3000 years ago. Over time they developed a unique language, mythology and spirituality. First contact with Europeans came in the late 18th century. Traditionally, the people lived on a staple diet of coconuts, pandanus and breadfruit, supplemented by fish. The small society seems to have been self-sufficient and socially cohesive. This was not to last.

Due largely to the introduction of firearms by passing whalers, the outbreak of conflict among the island's 12 tribes in the 1870s had a devastating impact, reducing the population by an estimated 40 per cent and breeding long-lived enmities.

GERMAN PROTECTORATE

In 1888, the first of many colonial administrations took control when Nauru was formally declared a German protectorate. The Germans, like many of the Europeans who established colonies in the region, brought with them lethal diseases that caused more deaths among the indigenous population. German administration appears to have done little to improve the lives of the Nauruan people and much to undermine their self-sufficiency.

15. Ibid

16. Maclellan, N, (2013) What has Australia done to Nauru? Overland, 212.

17. Connell, J. (2006) Nauru: The first failed Pacific state? The Round Table, 95 (383), 47 – 63.

18. Connell, J. (2006) Nauru: The first failed Pacific state? The Round Table, 95 (383), 47 – 63.

WORLD WAR I: AUSTRALIA, BRITAIN, NEW ZEALAND

After the First World War, Germany was required to surrender all its territories and the League of Nations made Britain, Australia and New Zealand trustees over Nauru. This was a so-called class C mandate, devised at the insistence of then Australian Prime Minister William (Billy) Hughes, among others, to avoid the “open door” for migration and trade from the administered territories that attached to mandate classes A and B. It also allowed the countries holding a mandate the right to administer Nauru as an “integral portion” of their own nations (Australia had originally wanted to annex Nauru).

The knowledge that there were plentiful supplies of phosphate rock along with a fledgling phosphate mining enterprise (by what subsequently became the British Phosphate Company, jointly owned by Britain, Australia and New Zealand) made Nauru an attractive prize. The 1919 agreement between the three powers dealt with only two key questions: the administration of Nauru and phosphate mining. An explicit objective of the agreement was to require British Phosphate’s commissioners to make the phosphate available “for the purposes of the agricultural requirements of the United Kingdom, New Zealand and Australia” (Art. 9). Few of the benefits of the excavation and sale of millions of tons of phosphate went to the Nauruan people. While the trade may have improved agricultural productivity in recipient countries, it denuded Nauru’s scarce arable land.

JAPANESE OCCUPATION

The Japanese occupied Nauru for three years during World War II and were even more destructive than the former colonial masters. According to *The Economist*: “Their solution to the island’s endemic leprosy was to load all the sufferers on to a boat and sink it. By the end of the war, what with air-raids, deportation and massacres, there were fewer than 600 Nauruans left on the island.”¹⁹ Many of those deported returned after the war.

WORLD WAR II

Following the end of the war, in 1948 the United Nations created the Trust Territory of Nauru with Australia holding the Administering Authority on behalf of New Zealand and Great Britain. This continued until 1968, by which time an estimated two-thirds of the phosphate was gone. According to the terms of the monopoly that the colonial powers granted themselves, Nauruan landowners were paid a pittance in royalties for the resource.

ENVIRONMENTAL DEVASTATION

The environmental destruction that resulted from this unrestricted colonial exploitation is a terrible indictment of Australia’s stewardship.

LACK OF FRESH WATER

Strip-mining turned Nauru into a barren, jagged wasteland. The once-dense tropical vegetation was almost totally cleared and the exposed rock now reflects the heat of the equatorial sun, leading to reduced rainfall and regular water shortages. Nauru no longer has adequate potable fresh water as the few original sources of water were polluted by phosphate mining. Nauru now depends on small and unreliable desalination plants.

As reported in the *New York Times* in 1995, Nauru is “... a case study for environmentalists and anthropologists in how easy it is to destroy a tropical ecosystem and crush a native culture. Inch for inch, Nauru is the most environmentally ravaged nation on earth”.²⁰ Nauru had to fight in the International Court of Justice for some compensation for this destruction of its lands. In 1993, Australia settled out of court for \$72 million.

DECLARED UNINHABITABLE

The island was so devastated and arable land in such short supply that in 1953 the Australian government declared Nauru uninhabitable and offered to resettle the population on a deserted island off the coast

19. economist.com/node/884045

20. nytimes.com/1995/12/10/world/a-pacific-island-nation-is-stripped-of-everything.html

of Queensland. The Nauruans, determined to win back control of their country, opted instead for independence, and in 1967 the Australian government finally agreed to this. The Republic of Nauru (Naoero) was declared in January 1968.

Two years later, the British Phosphate Company was sold to the new Nauruan government for \$21 million on condition Nauru sold an agreed portion of mined phosphate to the company's former partners at a fixed price substantially below open market value. The governments of Australia, New Zealand and Britain forced Nauru to borrow against its future earnings from mining to buy out their shares of the phosphate company.²¹

PHOSPHATE MINING: BOOM BECOMES BUST



Pinnacles created by coral exposed by phosphate mining.

Despite this, Nauru was still able to derive considerable revenue from phosphate mining, and for a period after independence, Nauruans enjoyed substantial wealth. The future looked bright. The government planned to set aside some revenues from mining to rehabilitate the land; some to public services and economic development; and some to investments to provide a revenue stream for future generations once the phosphate ran out. New lifting equipment was installed and a phosphate treatment

plant constructed, while the government began selling to new buyers, such as Japan and South Korea. All this helped increase revenues.

For a time, the Nauruan government provided generous support for its citizens – some would say too generous: there were no taxes; electricity, telephones and housing were subsidised; most of the Nauruans in work were employed by the government; schooling was free as was healthcare.

But Nauru was storing up a tragedy. As the Senate Select Committee on Australia's Regional Processing Centre on Nauru notes: "by the end of the 20th century ... declining phosphate royalties and financial mismanagement had virtually bankrupted the nation".²²

While in the years after independence Nauru still had significant surplus revenue that it invested in property, businesses and financial schemes, many

of these were ill-conceived and poorly managed. One of the legacies of years of Australian administration is the failure to ensure Nauruans had the necessary training and experience to govern and manage a modern state, and a very small one at that. The familiar story of unscrupulous conmen devising schemes to part the newly rich from their money played a big role in Nauru's decline.

Secondary phosphate mining began in 2005 and provided a limited revenue stream. Nauru also derived some additional revenue from licensing commercial fishing in its waters, but its economy remained limited and fragile. As the Senate Committee noted: "While reliable economic statistics are difficult to obtain, it is evident that the government of the Republic of Nauru has limited sources of internal revenue, very little local commercial activity and extremely high

21. www.abc.net.au/4corners/content/2004/s1208385.htm

22. aph.gov.au/Parliamentary_Business/Committees/Senate/Regional_processing_Nauru/Regional_processing_Nauru/Final_Report

unemployment, with the public sector dominating employment on the island”.

By the end of the 20th century, the Nauruan government did not have sufficient funds to sustain the population even at basic levels and foreign aid, chiefly from Australia, Taiwan and New Zealand, was all that was keeping it afloat.

In many ways what has happened to Nauru is a classic case of the “resource curse”. For a time, the exploitation of phosphate created vast wealth, but at the cost of serious social and environmental problems. By the time of independence, activity in agriculture and fishing had dropped sharply, unemployment had skyrocketed and, due to impoverished diets, islanders developed rates of diabetes and obesity that are among the highest in the world.

CORRUPTION AND MONEY LAUNDERING

In the scramble for new revenue sources, corruption flourished. For a time, the Nauruan government offered safe haven for an estimated \$US70 billion plundered by the Russian mafia from the fire sale of assets following the breakup of the Soviet Union. At one stage, Nauru was home to 450 banks registered to the same two-room shack. This money laundering and the indiscriminate sale of passports (including, it is alleged, to Al Qaeda operatives) caused the United States to classify Nauru as a rogue state. The Organisation for Economic Co-operation and Development also threatened economic sanctions if Nauru did not stop money laundering.²³

More recently, on 15 April 2016, Westpac Bank severed ties to the Nauru government over money-laundering concerns.²⁴

THE PACIFIC SOLUTION

The Australian Parliamentary Library explains the Pacific Solution in simple terms: “In response to a rising number of boat arrivals in 2001, the Howard government introduced what came to be known as the ‘Pacific Solution’ whereby asylum seekers onboard unauthorised – or irregular maritime arrival (IMA) – vessels were intercepted, usually by the Australian navy, and transferred to offshore processing centres on Nauru and Manus Island in Papua New Guinea.”²⁵

The Howard Coalition government had negotiated an agreement with an almost bankrupt Nauru in 2001 to take the Afghan and Sri Lankan refugees rescued by the Norwegian freighter the Tampa.²⁶

A TURNING POINT FOR AUSTRALIA

The introduction of the Pacific Solution marks the point at which Australia began moving away from its international treaty obligations – to one of crude and pragmatic national politics based on fear and vilification. As this report will examine in greater detail, this policy is an example that allowed for the indefinite detention of innocent people – it enabled the abuse of women, children and men seeking asylum in Australia.

In 2001 Nauru’s finances were in a perilous state and its government, led by President René Reynaldo Harris, was in serious trouble just as Australian Prime Minister John Howard was looking for a place to offload asylum seekers where they would be beyond the reach of Australian law.

As Maclellan, among others, has noted, the flow of funds to Nauru for the offshore refugee policy “had the effect of bailing out the Harris government and delaying political and constitutional reforms which were urgently needed to cope with the decline in

23. oecd.org/newsroom/fatfactsagainstterroristfinancingmoneylaunderingandnon-cooperativejurisdictions.htm

24. abc.net.au/news/2016-04-14/westpac-set-to-exit-nauru/7326892

25. aph.gov.au/about_parliament/parliamentary_departments/parliamentary_library/pubs/bn/2012-2013/pacificsolution

26. Some were brought to Australia, some sent to New Zealand.

phosphate revenues, the mismanagement of the Nauru Phosphate Royalties Trust and allegations of corruption”.²⁷

It was in 2001, just before the election in Australia, that a tiny boat with asylum seekers began floundering off the coast of Christmas Island, a part of Australia. The Australian government, after conducting aerial observations of the boat for two days, asked a Norwegian freighter, the Tampa, which was the largest ship nearby, to conduct a rescue. The Tampa did so. Australia asked the captain of the Tampa to take the rescued passengers to Indonesia. The Captain refused. Under international law, Australia, being the closest country, was the appropriate destination.

A stand-off ensued, with lawyers lodging an application in the Federal Court of Australia to try to secure safe landing for the passengers. The Australian government negotiated for New Zealand then Nauru to accept the passengers. This became the first act under the so-called Pacific Solution.

The Pacific Solution saw parts of Australia excised from the mainland, notably Christmas Island, and allowed for the transfer of asylum seekers to third countries.

It received support from the then opposition, Labor led by Kim Beazley. The result of the court case refusing to force the Commonwealth to accept the passengers on the Tampa was delivered 12 hours before the attack on the World Trade Centre. The statement of the then Prime Minister, John Howard, who was facing an election, said “we will decide who comes to this country and the circumstances in which they come.”^{27a} As many of those on board were from the Middle East, and those who launched the attack on September 11 were also from the Middle East, Howard cynically conflated the two issues to stoke national anxiety about terrorism. He was re-elected some weeks later.

The agreement by Nauru to accept hundreds of

asylum seekers in exchange for compensation and employment opportunities kept the new guard of young and anti-corrupt politicians on Nauru out of power.

Australia’s Pacific Solution not only secured the prime ministership for John Howard in the 2001 election, it also frustrated the shift of power in Nauru to a younger generation of well-educated and anti-corruption politicians who entered parliament from Nauru First group, including Dr Kieren Keke, Marlene Moses and Roland Kun. The old guard was saved by Australia’s intervention.

However, the Pacific Solution under the Prime Minister John Howard left behind ample evidence that harsh conditions on Nauru led to depression, hunger strikes, attempted suicides and a feeling of helplessness among asylum seekers.^{28a}

When the Gillard Labor government decided to reopen Nauru in 2012, there was little mainstream media coverage of this evidence which might have reminded the Australian public of the damage and trauma that had been caused by the Pacific Solution. In an attempt to remedy this, New Matilda published a two part time line in July 2012.^{28b}

POLITICAL TURMOIL

Since the arrival of the Regional Processing Centre and its troubled asylum seekers, politics in Nauru has been in turmoil, characterised by constantly shifting alliances and upheavals in the 18-member, single-chamber parliament (now expanded to 19 seats to avoid deadlocked votes).

Since the Howard government signed the memorandum of understanding with Harris in 2001, there have been 11 leadership changes in Nauru, several changes of government (the shortest lasting only days) and four states of emergency.

The use of Nauru to process asylum seekers continued until 2008 when the newly elected Rudd government closed the centre. The then Minister for

27. Maclellan, 2013, Op Cit

27a. electionspeeches.moadoph.gov.au/speeches/2001-john-howard

28a. Part 1: newmatilda.com/2012/07/24/our-nauru-amnesia/

28b. Part 2: newmatilda.com/2012/07/25/three-waves-nauru-anguish/

Immigration and Citizenship, Chris Evans, said that the policy of detaining offshore was a “cynical, costly and ultimately unsuccessful exercise”.^{29a}

With continued boat arrivals and elections looming, the Gillard government reopened the Nauru centres and negotiated with PNG for Manus Island to be used to house asylum seekers in 2012 following an Expert Report. The report included recommendations suggesting offshore processing might prevent people smugglers from convincing asylum seekers to spend large amounts of money on the dangerous journey from Indonesia to the closest parts of Australia on Ashmore Reef and Christmas Island.

The Australian population had been shocked by vivid footage of the SIEV 221 carrying mainly Iranian asylum seekers floundering onto the jagged cliffs of Christmas Island in December 2010. More than 40 people died, including children and babies. In 2013, when Rudd was Prime Minister again, he announced that none of those detained in offshore centres would ever make it to Australia.

On Nauru, President Sprent Dabwido declared a state of emergency on 27 May 2013 and fast-tracked the election to little more than a week later. This led to the resignation of Finance Minister Roland Kun. The government issued a ban on the media conducting interviews with politicians in the lead-up to the elections. In the week between the declaration of emergency and the election, it is estimated that Dabwido distributed \$5 million in cash payments to the Nauruan public.³⁰

EROSION OF CIVIL LIBERTIES

US-based non-government organisation Freedom House’s 2015 report describes some of the recent changes in Nauru’s political practice that led it to downgrade the island’s civil liberties rating:

In January, officials targeted several Australian nationals – including prominent members of Nauru’s judiciary, a former media adviser, and a business owner – with seemingly arbitrary applications of immigration law. The resident magistrate and Supreme Court registrar was dismissed and deported, and the chief justice of the Supreme Court was banned from re-entry into Nauru after he attempted to intervene in the former case. In May and June, a total of five opposition legislators were suspended from Parliament after protesting the government’s actions and speaking to the foreign media about the incidents.³¹

Subsequently, several of the politicians suspended from the parliament have been charged with rioting, denied legal representation and prevented from leaving Nauru. Roland Kun’s wife and children have not been allowed to rejoin him on Nauru and he cannot leave.

In reporting on Nauru to the UN periodic review last year, the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression called on the government of Nauru “to withdraw recent amendments to the Criminal Code that unduly restrict freedom of expression” – those who stir up “political hatred” face the threat of seven years in jail. The Special Rapporteur also urged the authorities “to revoke other measures that restrain access to the internet and social media and curtail the freedom of the press”, allow “a free space for expression without fear of criminal prosecution” and “lift all restrictions to gaining access to the Internet and social media”.³²

29a. parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressrel%2FYUNP6%22

30. <https://overland.org.au/previous-issues/issue-212/feature-nic-maclellan/>

31. freedomhouse.org/

32. daccess-dds-ny.un.org/doc/UNDOC/GEN/G15/187/69/PDF/G1518769.pdf?OpenElement

The Special Rapporteur also recommended facilitating access for the media, stating that freedom of the press had been limited since the government imposed prohibitive visa fees for foreign journalists to enter the country in 2015. Even journalists offering to pay have not been accepted. Since then, only one Australian journalist has been able to visit Nauru.

CORRUPTION IN NAURU'S CORRIDORS

As both Freedom House and the UN have pointed out, corruption is a serious problem in Nauru. For example, in 2011, the country's president resigned following allegations that he had accepted bribes from an Australian phosphate company. Similar allegations aired by the ABC following the discovery of emails showing that mining company Getax paid tens of thousands of dollars in bribes to President Baron Waqa and Justice Minister David Adeang are still being investigated.³³

Research associate at the Development Policy Centre at the Australian National University, Dr Tess Newton Cain, argues that:

Prior to 2004, Nauru was a democracy in name only with the cabinet effectively ruling by fiat. There was no commitment (or even lip service) to any form of checks and balances on executive action and no understanding of the need for administrative decisions to have a lawful basis. Some degree of 'progress' was made during the 2007-11 period, which may come to be seen as the high point as far as good governance applies in Nauru. However, in the period of November 2011 to mid-2012, and more recently since the change of government in June 2013, there has been a comprehensive removal of office-holders who are seen to stand in the way of government will and whim. This includes the Commissioner of Police, the Secretary of Health, the Secretary of Justice and others, most recently the Resident Magistrate Peter Law.^{33a}

"I wish we'd never discovered that phosphate. I wish Nauru could be like it was before. When I was a boy, it was so beautiful. There were trees. It was green everywhere, and we could eat the fresh coconuts and breadfruit. Now I see what has happened here, and I want to cry."

— Reverend James Aingimea, minister of the Nauru Congregational Church, talks to the New York Times, 1995



Dilapidated phosphate mining structure on Nauru.

33. <http://www.smh.com.au/national/australian-firm-bribed-nauru-government-ministers-for-special-deal-afp-20150608-ghj69j.html>

33a. devpolicy.org/the-pacific-solution-and-naurus-coup-by-stealth-20140123/

NEW ZEALAND SPEAKS OUT, AUSTRALIA STAYS SILENT

The government of Nauru has effectively done away with the rule of law and Nauru's democratic institutions have been severely compromised. This is why the New Zealand parliament unanimously passed a motion condemning the Nauruan government's interference with the judiciary and civil and political rights in 2015. It is why New Zealand

has suspended aid that supports the judicial system.

The Australian government, meanwhile, remains silent, having connived for decades in undermining Nauru's fragile democracy. It pretends the Nauruan government is capable and independent in its decision making while calling all the shots. Nauru may have become a failed state, but as the Australian government's black site, it serves a very useful purpose.

WHY AUSTRALIA NEEDS NAURU

“I went inside. Dogs came in too. Man took off all his clothes and showed me his private parts. I wet my pants and soiled my pants. This is reason I left my country – this fear of rape – I see it happen to many. Then he said I don’t care and hit my face very hard. He said dogs will kill you if you don’t suck my private part. Then I have no choice.”³⁴

Such is the ferocity of abuse of women on Nauru – glimpsed through the telephone conversations and stories smuggled out of the island – that many people among the previously disinterested population of Australia are demanding change. But Australia has been here before.

LABOR CLOSES NAURU

“Labor will end the Pacific Solution, the so-called Pacific Solution, the processing and detaining of asylum seekers on Pacific islands, because it is costly, unsustainable and wrong as a matter of principle,” said Prime Minister Kevin Rudd in 2007.

On 8 February 2008, Labor’s Immigration Minister Chris Evans issued a media release saying the government had started discussions with Nauru about closing the centre.

Last refugees leave Nauru

The last of the refugees detained at the Offshore Processing Centre in Nauru will

arrive in Australia today, the Minister for Immigration and Citizenship, Senator Chris Evans, said.

The 21 Sri Lankans are the final members of a group of 82 refugees detained on Nauru that have been resettled in Australia as part of the humanitarian resettlement program.

The Australian Government has initiated discussions with the Nauruan Government over the closure of the centre.

‘The Rudd Government pledged to dismantle the Pacific solution and we have moved quickly on that front,’ Senator Evans said.

‘The Pacific solution was a cynical, costly and ultimately unsuccessful exercise introduced on the eve of a federal election by the Howard government.’³⁵

LABOR REOPENS NAURU

After Prime Minister Kevin Rudd’s decision to shut the Nauru detention centre, Refugee Council of Australia chief executive Paul Power issued a media release saying: “Following the resettlement of all refugees from the island detention centre to Australia, the closing of the offshore processing facility represents the next step along the path to what will hopefully be the full dismantling of the Pacific Solution.”

34. Female refugee on Nauru.

35. parlinfo.aph.gov.au/parlInfo/download/media/pressrel/YUNP6/upload_binary/yunp61.pdf;fileType=application%2Fpdf#-search=%22media/pressrel/YUNP6%22

This has never occurred. Four years after that closure, the Labor government under Prime Minister Julia Gillard reopened the Nauru detention centre. Gillard did so at the apparent behest of an Expert Panel and after more than 7000 asylum seekers had arrived in Australia by boat in 2012. Documentary evidence shows that in January 2012 a team was dispatched to Nauru with a view to reopening the detention centres. This team found that the existing infrastructure was in an unusable state of disrepair and that water would be a major problem if asylum seekers were to be housed again on Nauru.

While the end of the Pacific Solution received a great deal of favourable media coverage, the reopening of the same detention centres raised barely a whisper of dissent – despite the fact that media reports explained refugees would be held primarily in tents, and that the previous detention regime had been destructive of refugees’ physical and mental health.

Gillard reassured both Nauru and Papua New Guinea that the asylum seekers would be processed quickly.³⁶ But many asylum seekers and refugees are still on Nauru four years later.

CAMP CONDITIONS AND VIOLENCE ON NAURU

The situation on Nauru has never been good for those seeking asylum, as this feature in The Saturday Paper from March 2016 makes clear:

“Everyone was feeling despair and hopelessness inside the camp. Sometimes hopelessness is worse than insecurity. When you live in an insecure situation, you will be killed once and finished. But when you are hopeless, it eats you from inside and it destroys you slowly and painfully. My situation became very bad in Nauru and I was seeing a psychologist and psychiatrist regularly. They would not give any other medication, just sleeping pills.

We ate our lunch in a hall called Greenhouse. It was our dining room. Both sides were open. There was

no hygiene at all. The plates were swarming with flies. There was no time to wash them. Sometimes people found flies in food. We kept eating until we saw flies and then stopped eating. When we complained to Wilson Security guards, they told us, “Don’t worry. It’s all protein.”^{36a}

The situation in Nauru appears to be deteriorating even further. On Saturday 5 March 2016, an Iranian refugee was walking home late on Saturday night when two Nauruan men attacked him with a machete, saying: “F**k refugees”. As reported in The Guardian, despite the victim having a head wound that needed eight stitches, the police denied the attack took place.^{36b}

A day later there was another rape. The woman concerned cannot be identified. This is an account from a confidant of the woman concerned:

She was waiting at the bus stop on Sunday evening. A few folks around but the quiet of the tropical night was descending. That quiet was shattered when a car came careering down the road and stopped in front of her. Before she had a moment to act the back door swung open and she was dragged in as the car took off.

The driver never stopped as the man in the back raped her, saying to her over and over again, “We will kill you if you tell anyone about this.” Between the assaults she struggled to tell him she wouldn’t tell anyone, they didn’t need to kill her, their secret was safe with her.

They eventually finished, slowed down and threw her out of the car. She made her way home, terrified they would reappear, terrified the dogs would find her and attack, terrified this would never end because she is trapped on Nauru for the rest of her life. She knew those men had no reason to not do all of that – and more – again. On Nauru there is nothing to stop them.

Her family would be broken if she told them. They had spent everything they had ever had to get her

36. news.com.au/national/gillard-assures-png-nauru-on-length-of-detention-of-asylum-seekers/story-fncynjr2-1226461038728

36a. thesaturdaypaper.com.au/2016/03/12/life-the-nauru-detention-centre/14577012002993

36b. theguardian.com/world/2016/mar/10/nauru-refugee-left-with-horrific-head-wound-after-attack-dismissed-by-police

out of Somalia, to make sure she didn't get taken, wasn't another victim of that vicious war – a war where rape is the preferred weapon. She couldn't break their hearts by telling them she had landed on an island where another war was being waged and she could not escape this one.

There is a war being waged on Nauru and Australia is funding it. But who would believe that?

GROOMING THE NATION

Many mental health experts and academics have struggled to understand how a previously law-abiding and human rights-focused country such as Australia has found itself in breach of three key international human rights treaty obligations.

One of Australia's most senior mental health experts, Professor Michael Dudley, has recently published a paper that found: *"Public numbing and indifference towards state abuses in Nazi Germany resembles that enabling Australia's immigration detention centres."* Professor Dudley also found Australia's public complicity in the detention regime was similar to the White Australia policy.³⁷ (Established in the 1800s until dismantling began in the 1950s, this policy effectively allowed immigration only from the UK and Europe and prevented Asian immigration.)

MANDATORY DETENTION BEGINS

So how did Australia become so abusive of the human rights of those seeking asylum? Incrementally.

On 1 January 2016, the National Archives of Australia released selected key cabinet records from 1990 and 1991. One document, dated 26 June 1990, reveals the thinking that would later underpin the idea that people who arrived by boat were displacing refugees waiting in a refugee camp elsewhere in the world. This document introduces

the idea of asylum seekers as "queue-jumpers".

A background attachment prepared for cabinet explained: *Each applicant who is granted asylum in Australia displaces an applicant for humanitarian consideration overseas. Many applicants overseas are living in tenuous conditions in countries of refuge, have waited patiently in line to be assessed, and have claims for humanitarian resettlement which are far more urgent and compelling than the majority of cases considered in Australia.* It added: *We are seeing a growing trend worldwide of the jet-age asylum claimant.*³⁸

However, it was 9pm on 30 March 1992 when a meeting took place between Labor's then Minister for Social Security, Neal Blewett; the Minister for Aged, Family and Health Services, Peter Staples; and the Minister for Immigration, Local Government and Ethnic Affairs, Gerry Hand. The meeting was held to discuss asylum-seeker benefits: benefits that would be paid to asylum seekers as they waited for their claims to be settled.

At this point, asylum seekers coming to Australia could expect to be housed in the open village of Villawood, in Sydney's western suburbs, with free access to English classes, healthcare, transport and trauma services. This meeting was set up to discuss the level of pension to be provided to asylum seekers and decide who would administer it.

Neal Blewett's A Cabinet Diary reads: *"A 9 pm meeting with (Gerry) Hand and Staples on the asylum-seeker's benefit. Hand wanted nothing to do with any ameliorative stance. He was for interning all who sought refugee status in camps, mostly at Port Hedland [WA], where they would be fed and looked after. This is a nonsensical proposal – politically unsellable to the liberal constituency, impossible in practice (if any significant number of refugees took up the option his department would collapse) and financially irresponsible – if it worked it would cost more than the other options. It was obviously his*

37. Helping professionals and Border Force secrecy: effective asylum-seeker healthcare requires independence from callous policies. *Australasian Psychiatry* 2016, Vol 24(1) 15–18 © The Royal Australian and New Zealand College of Psychiatrists 2016

38. "Cabinet papers 1990: from little things, Australia's asylum seeker policy grew", Frank Bongiorno, *The Conversation*, 1 January 2016.

*[Hand's] intention that if Staples provided an asylum-seeker benefit, or I the charity option or a modified asylum-seeker benefit, we would have to take responsibility for the measure. His left-wing mate Staples accused Hand of "abdicating responsibility for his own shit". So Staples and I decided to call his bluff and accept his lead as Immigration Minister. It will be interesting to see the cabinet response to his proposals."*³⁹

Blewett didn't have long to wait. Just six weeks later, on 5 May 1992, Hand introduced mandatory detention to Australia saying:

The Government is determined that a clear signal be sent that migration to Australia may not be achieved by simply arriving in this country and expecting to be allowed into the community ... this legislation is only intended to be an interim measure. The present proposal refers principally to a detention regime for a specific class of persons. As such it is designed to address only the pressing requirements of the current situation. However, I acknowledge that it is necessary for wider consideration to be given to such basic issues as entry, detention and removal of certain non-citizens.

There was no hue and cry over this announcement: it had bipartisan support and slid through to the keeper with almost no media coverage. But from this tweaking of the immigration system, much has followed. Certainly over the following 23 years, "much wider consideration has been given to such basic issues as entry, detention and removal of certain non-citizens".

The introduction of mandatory detention was the stone that began the avalanche. By 2013, conditions were so appalling on Nauru it was being compared to a concentration camp. In late 2015, Nauru and

Manus Island featured heavily as more than 100 nations queued up to ask Australia to rejoin the international community and end its harsh asylum policies. It is worth noting that while mandatory detention was brought in by the Keating Labor government, the maximum an asylum seeker could be kept in detention was less than 300 days. Under the Howard Coalition government, mandatory detention became indefinite detention and was affirmed in the courts in 2005.

HELL'S HIGH COST: \$1.2 BILLION A YEAR

When Blewett prophetically observed "*if it worked it would cost more than the other options*", he could not have imagined a time when Australia's harsh policies would cost about \$1.2 billion a year to enforce – and that this \$1.2 billion would go to a private company, not a public service.⁴⁰ This figure includes the detention centres on both Nauru and Manus Island.

In *No Business in Abuse*,^{40a} the report of the campaign against the private operators of the Nauru detention centre has detailed not only the cost involved in offshore processing but also the damage done by the major company, Broadspectrum (formerly Transfield), to those detained.⁴¹

Further, the 2014 Commission of Audit's report reveals that this offshore processing cost Australia's taxpayers 10 times more than allowing asylum seekers to live in the community while their refugee claims are processed. It costs \$400,000 a year to hold one asylum seeker in offshore detention; \$239,000 a year to hold them in detention in Australia; and less than \$100,000 for an asylum seeker to live in community detention. It costs about \$40,000 a year for an asylum seeker to live in the community on a bridging visa while their claim is processed.^{41a}

39. A Cabinet Diary, Neal Blewett, Wakefield Press, South Australia, 1999.

40. <http://www.abc.net.au/news/2015-07-14/cost-of-offshore-processing-united-nations-fact-check/6609764>

40a. www.nobusinessinabuse.org/site/about

41. https://d68ej2dhhub09.cloudfront.net/1321-NBIA_Report-20Nov2015b.pdf

41a. ncoa.gov.au/report/appendix-vol-2/10-14-illegal-maritime-arrival-costs.htm

SECRECY, LANGUAGE AND LIES ABOUT SEEKING ASYLUM

The way Australia deals with people fleeing persecution has been framed in several ways over the past two decades. To understand how Australians got to the point where the brutalisation of innocent men, women and children is now a strategy to ensure asylum seekers never arrive in Australia, it is vital to understand the frames created by both major political parties. Because no issue in recent Australian history has been so tightly or skilfully framed as that of asylum seekers who arrive by boat.

While Howard had come to power encouraging Australians to be “relaxed and comfortable”, it was clear by the turn of the century – and certainly post-Tampa and the terror attacks on New York in September 2001 – that “alert not alarmed” suited his purposes better.

This was a time of vigilant alertness. It created a national disposition of concern or, as Professor of Anthropology and Aocial Theory at the University of Melbourne, Ghassan Hage, called it, a “culture of worrying”.⁴²

During this time of “worry”, asylum seekers were labeled “illegals” and “queue-jumpers” – implying there was a well-ordered queue waiting somewhere in the world and asylum seekers should simply have joined it and waited patiently with the rest of

humanity. Then they were referred to as “economic migrants” who were so rich they could use the services of people smugglers to jump the queue.

CHILDREN OVERBOARD

However, it was the hurried telephone conversation between the Commander of HMAS Adelaide, Norman Banks, and Brigadier Mike Silverstone on 7 October 2001 that delivered the Howard government an extraordinary opportunity. During this conversation Banks told Silverstone someone aboard what the navy called SIEV-4 (suspected irregular entry vessel) was threatening to throw a child overboard.

The “children overboard” claim emerged in the first week of the 2001 federal election campaign and, from the Coalition’s point of view, was simply too good to be false. In the lead-up to this incident, the Howard government had been running hard on “queue-jumpers” and the threat of terrorists arriving by boat – and, of course, preventing the cargo ship Tampa, which had rescued more than 400 refugees from Afghanistan from a distressed fishing vessel, from entering Australian waters.

As has now become common practice, this event

42. Borderlands e journal VOLUME 2 NUMBER 1, 2003, On Worrying: the lost art of the well-administered national cuddle*, Ghassan Hage, University of Sydney.

was dominated by the voices and moral evaluations of elite figures in the public service, the Defence Force and, above all, the government. This worked so well for the government in terms of keeping control of the narrative, it has now become a permanent fixture of the debate. Secrecy surrounds any incident at sea – every arrival, pushback, sinking and sighting of asylum seekers has become an “on-water matter”.

BORDER FORCE ACT

The secrecy surrounding Australia’s treatment of asylum seekers and management of the nation’s borders led to the creation of the Australian Border Force Act 2015 on 1 July 2015.⁴³ The Act makes it an offence for an “entrusted person” (an Australian Border Force employee) to make a record of or disclose “protected information”. This is widely defined to include any information obtained by the person in their capacity as an employee. The penalty for the offence is two years’ imprisonment.

DROWNINGS AT SEA

However, in recent years, the frame has changed yet again.

As mentioned earlier (see page 21), the boat named as SIEV-221 overturned and ran onto rocks on Christmas Island.

This provided a powerful new frame. Following this disaster, both Labor and Coalition politicians began arguing the brutal asylum seeker policies were necessary not so much to prevent queue-jumpers, terrorists or economic migrants, but to prevent drownings at sea.

Labor and the Coalition argue the policies have been successful. The boats have largely stopped coming to Australia and therefore people are no longer drowning at sea. But this is not true. People are still drowning at sea, but now they are drowning

in a different part of the sea – no longer in Australian waters so much as the Andaman Sea.

In 2014, asylum seekers drowned well outside Australia’s territorial waters.⁴⁴ Further, pushing back the boats of those fleeing persecution simply means these people will die or be tortured when they return to the country they are fleeing – this is why they took such a perilous journey in the first place.

GAGS AND BLACKOUTS

The frame for the debate is not the only aspect that has changed. Nauru has essentially become a black site where accountability has broken down.

During the Senate Inquiry into Nauru’s detention centre in August 2015, Greens Senator Sarah Hanson-Young, deputy chair of the report’s committee, pointed to what she called the “mountains of evidence” that abuse is widespread in the centre.

“The most horrific aspects of this inquiry really are the abuse of children, the sexual harassment and assault of women,” Senator Hanson-Young said. “And the fact that for months, the government contractors have known that this abuse has been going on and yet these women and children remain locked up inside the camp.”

With a media blackout on interception at sea and access to Manus and Nauru nearly impossible – not to mention the new Border Force Act that effectively gags doctors and healthcare workers reporting on conditions in these camps – the inherent humanity of asylum seekers in these camps is totally denied.^{44a}

Their stories are whispered to the few lawyers, doctors and reporters who find a way to get a phone call through or who have relationships within the Hazara, Iranian, Iraqi and Syrian diaspora. They are also recorded in greater detail in the Moss Report (see pages 37-9) and on ABC Television’s current affairs program Four Corners.^{44b}

43. legislation.gov.au/Details/C2015C00319

44. refugeecouncil.org.au/n/mr/140611_Rohingya.pdf

44a. sbs.com.au/news/article/2015/09/01/senate-committee-calls-urgent-removal-children-nauru

44b. <http://www.abc.net.au/4corners/stories/2016/04/25/4447627.htm>

THE WAR ON WOMEN

Despite its beginnings as a matrilineal society, Nauru has not been a safe place for Nauruan women and children for some decades. Structural discrimination against women is embedded in Nauruan society, and it is in this context that we consider the daily treatment of female asylum seekers and the health services available to them.

ABUSE OF NAURUAN WOMEN

In 2005 a report by UNICEF attempted to quantify the problem, finding that:

*Although traditional Nauruan society was matrilineal, the status of women has been eroded. While there is little documentation of domestic violence against women and children, the general community perception is that such incidence is increasing with the deterioration of the country's economic situation.*⁴⁵

The report also indicates that despite this general perception about violence against women and children, few prosecutions have taken place.

By 2014 a report released by the Nauruan Department of Women's Affairs, Nauru Family Health and Support Study,⁴⁶ a survey of the experience of Nauruan women, had detailed:

PHYSICAL AND/OR SEXUAL VIOLENCE BY PARTNERS

- Nearly half of partnered women (48.1%) who participated in the survey experienced physical and/or sexual violence by a partner at least once in their lifetime and 22.1% experienced such violence in the 12 months preceding the interview.
- Nearly half of partnered women (46.6%) who participated in the survey experienced physical partner violence at least once in their lifetime and 20.6% indicated experiencing such violence in the 12 months preceding the interview.
- The most commonly mentioned act of physical partner violence was being slapped or having something thrown at them (84.1%).
- Among pregnant women who reported experiences of physical and/or sexual partner violence, 25.4% experienced physical violence in at least one pregnancy.
- One-fifth of ever-partnered women (20.6%) experienced sexual violence by a partner at least once in their lifetime and 9.9% said they experienced such violence in the 12 months prior to the interview.
- The most commonly reported act of sexual partner violence was being coerced to have sex and being afraid of what her partner might do if she refused (30.2%).

45. McMurray, Christine (2005), Nauru: A Situation Analysis of Children, Youth and Women; Suva, UNICEF.

46. countryoffice.unfpa.org/pacific/drive/NauruFHSSReportweb.pdf

IMPACT OF PARTNER VIOLENCE ON WOMEN'S HEALTH AND WELLBEING

- Slightly more than half of the women who ever experienced physical and/or sexual partner violence (50.8%) were injured at least once as a result of partner violence.
- Almost 16% of women who experienced physical and/or sexual partner violence said they lost consciousness at least once due to the violence and almost 18% were hurt enough to need health care.

ABUSED WOMEN'S REACTION TO PARTNER VIOLENCE

- Nearly 29% of women who experienced partner violence never disclosed the violence to anyone and those who did tell someone mostly confided in family and friends.
- About 68% of women who experienced partner violence never went to formal services or authorities, such as police or health centres, for help.
- More than 40% of women who experienced partner violence never left home despite the violence and those who did leave at least once mostly left because of the severity of the violence.

The report adds: *As in the case of other Pacific Island countries, it is difficult to reliably estimate the level of domestic violence in Nauru due to the high level of underreporting and sensitivity around the issue. According to the Women's Affairs Department, the country's small population size and the lack of privacy in the communities seem to have created peer pressure and stigma against reporting.*

Such is the level of underreporting that in 2013 only one incident of rape was reported to police.⁴⁷

ABUSE OF WOMEN SEEKING ASYLUM

The women fleeing violence and the threat of sexual assault in their own countries of Somalia and Iran had no idea that when they were flown to Nauru they would be detained within a community already steeped in silence and sexual violence.

When rape has resulted in unwanted pregnancies, at least a dozen women (some estimates are higher) have been flown to Australia to have terminations. However, this option is closing off as the Australian government prepares to return more than 267 asylum seekers and refugees to Nauru. These people were flown to Australia for medical treatment, terminations and mental health issues – often involving self-harm and attempted suicide. At the time of writing they were still in Australia.

SOMALI WOMEN: RAPE AS A WEAPON OF WAR

Many of the single women living in the detention centre – and more recently in the community – are from Somalia. They fled their homeland because of the pervasive threat of rape. As this Human Rights Watch report makes clear:

*Sexual violence is pervasive in much of Somalia. Two decades of civil conflict and state collapse have created a large population of displaced persons and other people vulnerable to sexual violence. At the same time it has destroyed the state institutions that are supposed to protect those most at risk. Armed assailants, including members of state security forces, operating with complete impunity, sexually assault, rape, beat, shoot, and stab women and girls inside camps for the displaced and as they walk to market, tend to their fields, or forage for firewood. Members of Somalia's long marginalized minority communities are particularly at risk.*⁴⁸

47. Nauru Women's Affairs Department. Beijing + 20 Review Nauru Report

48. hrw.org/report/2014/02/13/here-rape-normal/five-point-plan-curtail-sexual-violence-somalia



Refugee child on Nauru.

The use of rape as a weapon of war is well documented.⁴⁹ The post-traumatic stress experienced by many refugees, women in particular, means that the threat of violence is often rewarded by compliance and silence from its victims.

Disturbingly, the experience of many young Somali women on Nauru is what the UN refers to as “double victimisation”.⁵⁰ First there is the rape or sexual assault itself, then failure of the authorities to provide protection, effective justice or medical and social support. The trauma of the rape is compounded by the refusal of the police to take effective action.

SUFFERING COMPOUNDED BY SUFFERING OF CHILDREN

Women detained on Nauru with their children experienced not only their own personal anguish, but had the added heartbreak of knowing they could not protect their children from the emotional, mental and physical damage inflicted by this form of detention. Many women report that they have the painful burden of watching their own children and others become mentally and emotionally ill – and they are unable to alleviate this suffering.⁵¹

THE WAR ON CHILDREN

The Australian Human Rights Commission has detailed forensically the damage done to refugee children in its report *The Forgotten Children*.⁵²

The report’s overarching finding is that the prolonged mandatory detention of asylum seeker children causes them enormous mental and physical illness and developmental delays, in breach of Australia’s international obligations.

The following is a snapshot of the findings:

- Children in immigration detention have substantially higher rates of mental health disorders than children in the Australian community.
- Both the former and current Immigration Ministers agreed that holding children for prolonged periods in remote detention centres does not deter people smugglers or asylum seekers. There appears to be no rational explanation for the prolonged detention of children.
- The right of all children to education was denied for more than a year to those held on Christmas Island.
- The Minister for Immigration and Border Protection, as the guardian of unaccompanied children, has failed in his responsibility to act in their best interests.
- The Australian government’s decision to use force to transfer children on Christmas Island to a different centre breached their human rights.
- The numerous reported incidents of assaults, sexual assaults and self-harm involving children indicate the danger of the detention environment.
- At least 12 children born in immigration detention are stateless, and may be denied their right to nationality and protection.

49. worldpolicy.org/blog/2011/10/26/living-hell-somalias-hidden-rape-epidemic

50. globaleducationmagazine.com/rape-somalia-women-double-victimisation/

51. See Letter from a Mother on Nauru, name withheld.

52. humanrights.gov.au/our-work/asylum-seekers-and-refugees/publications/forgotten-children-national-inquiry-children

- Dozens of children with physical and mental disabilities are detained for prolonged periods.
- Some children of parents assessed as security risks have been detained for more than two years without hope of release.
- Children detained indefinitely on Nauru are suffering from extreme levels of physical, emotional, psychological and developmental distress.

CONDITIONS RIFE FOR ABUSE

When reopening the detention centres, the violence, systemic humiliation and sexual abuse of women in the centre were entirely predictable. The physical layout of the camp – not to mention the culture and secrecy of the Nauruan community and the powerlessness of the refugees – all but ensured the violence that followed. The Australian government has access to the international recommendations established by the UNHCR. These Detention Guidelines⁵³ were not implemented when Australia reopened the detention centres on Nauru.

The two centres on the island are made up of large vinyl tents with a narrow breezeway running between them. On average, four families share a tent, with plastic walls dividing each family's area. With the temperature ranging from 24 degrees Celsius to 34 degrees most of the year, the humidity and heat are stifling. Temperatures inside the tents can reach 50 degrees Celsius during the day, fans are dependent on the intermittent electricity supply and barely lower the temperature.

Some of the tents have mould caused by the humidity and offer little protection from the elements. Lacking any kind of locks, they also provide no protection from those who would enter. As one woman told the authors of this report: *"I lie there afraid all night waiting in case a man comes in – you cannot lock a tent."*

The communal bathroom and toilet blocks are at least 10 metres from the nearest tents and with Nauru's ongoing water shortages water is strictly rationed.



Large vinyl tents with narrow breezeway in which refugees and asylum seekers are housed in the Regional Processing Centres on Nauru. Image courtesy of documentary film "Chasing Asylum".

53. [unhcr.org/505b10ee9.pdf](https://www.unhcr.org/505b10ee9.pdf)

One detainee described the conditions:

Our marquees are very dirty. Because of the weather, after some time, there is mould in the marquees and because of the strong sun, the roof of the marquees has holes and when it rains we get a lot of water inside the marquees. There is so much water that we have to collect all our belongings and empty the water with buckets. In this hot weather, we have access to the showers for only three minutes and this is not enough. In the past month, we have had more problems due to lack of water and there have been days when we even have not had access to three-minute showers and there has been no water to flush the toilets. These put together causes filthiness and increase the number of flies. The toilets are very dirty and unhygienic. Most of them do not work and are unusable. The bathroom floors are always covered in dirty water and small children need specific bathrooms.

This lack of water provides the opportunity for exploitation from male guards. As detailed in the Moss Review (see pages 37-9) the male guards control the showers and operate them on a stop-cock clock system to limit water use. Male guards sit outside showers with flimsy plastic curtains watching women shower.

NAURU OPENS THE CAMPS

On 5 October 2015, Nauru announced it was opening the detention camps and refugees would be free to come and go from camp and that eventually all refugees would be settled in the community. Not only did the announcement thwart an attempt by refugee advocates to argue Australia was in breach of its Constitution by creating the detention centres, it also meant that guards could impose body searches on all refugees and asylum seekers as they came and went from the camp.

HOW WE KNOW WHAT WE KNOW

This report relies on a number of reports and reviews that are already on the public record that we shall now examine. We have also recorded stories from refugees and asylum seekers themselves. These stories have been confirmed; however, in the interests of protecting the safety of the people who courageously talked to us, we have not included names or dates in their accounts.

AN IRANIAN WOMAN [NAME WITHHELD] BEING HELD IN DETENTION ON NAURU, 2014

“We were taken to the Regional Processing Centre in Nauru where our claims were assessed. We were granted refugee status in 2014.

While we lived in the processing centre we were faced with very difficult conditions. We were allowed very limited toilet and shower facilities and even water was rationed. The guards would sometimes ask for sexual favours in return for more water or shower time.

However, we felt safer in detention than out in the community in Nauru. We would have local residents sometimes approach the centre, intoxicated and demanding women. They would hurl abuse at us, using racist terms. We were scared to live outside in the community.

When we received our refugee status we would have to leave the compound to collect our fortnightly allowance and do shopping. We were never safe when doing so as the locals would hurl abuse at us and spit at us. I made every effort to stay indoors and only leave the compound when it was absolutely necessary. I felt trapped and imprisoned.

On one of the shopping trips I had to do, I was

with a few other ladies. As we walked outside the compound, a few locals insisted on giving us a lift. They were drunk, and started spitting at us, and using abusive and racist language. We got out of the car as quickly as we could, and made our way to the shops. We had people follow us, and they started touching and groping us. I was terrified and had to run away to safety.

After reaching safety, I reported this incident to the local police. The police did not bother to investigate, and never took any action. I felt that the authorities turned a blind eye to whatever happened to us. It was as if the perpetrators were entitled to do whatever they wanted to us. One of my friends who was with me also spoke to a worker at Save the Children about the incident, but there was nothing they could do to make the authorities take action.

My husband and I were brought to Australia for the birth of our first child. We have been told that we will be sent back to Nauru. I am too scared to go back to Nauru. I live in constant fear of going back to the place where my safety and that of my family, especially that of my six month old son, cannot be guaranteed. I feel safer in detention in Australia than in the community of Nauru.”

MORRISON'S VIDEO: KILLING HOPE

Up until early 2014, asylum seekers and refugees held in detention on Nauru and Manus were still waiting to hear when they would be allowed to go on to Australia and settle their lives. On 25 September 2014, Immigration Minister Scott Morrison broadcast a three-and-half-minute video that put an end to those hopes.

STEVEN GLASS, LAWYER; BOARD MEMBER, ASYLUM SEEKERS CENTRE⁵⁸

23 March 2015⁵⁹

On 25 September last year (2014), the then Minister for Immigration, Scott Morrison, made an announcement by video link to asylum seekers detained in Nauru, who had been gathered together in the detention centre's mess room for the occasion. They watched the minister on a television screen, standing beside an Australian flag as he made a 3½-minute speech. They heard him say:

"You may have heard that temporary protection visas are to be reintroduced. This policy does not apply to those who are on Nauru ... Processing and resettlement in Australia will never be an option to those who have been transferred to regional processing centres ... There are no exceptions. You will remain there [in Nauru] until you either choose to return or are resettled somewhere else other than Australia."

THE MOSS REVIEW

The Moss Review into recent allegations relating to conditions and circumstances at the Regional Processing Centre in Nauru⁵⁵ covered the period from July 2013 to October 2014 and came after the government's own expert findings⁵⁶ as reported in The Guardian on 30 May 2014 concerning the serious health risks to children and pregnant women. During the course of taking evidence, it became clear the Australian government already knew about complaints of abuse.⁵⁷

For the more than 900 asylum seekers in Nauru, including 180 children, hope for a life free of persecution turned instantly to despair. In and around the mess room there was crying and screaming. Some detainees became angry. Many began to protest. Some simply lost all hope. They could no longer see a future. They couldn't go home for fear of being killed or persecuted. But they could never leave Nauru, either.

In the 48 hours immediately following Mr Morrison's speech, there were 10 reported incidents of self-harm or attempted suicide, more than had occurred at the centre in the entire 12 months prior. These included detainees stitching together their lips, cutting their forearms, or swallowing detergent. In a number of cases these things were done by 16 and 17-year-olds.

Over the next couple of days, these incidents were brought to the attention of the Australian public by Senator Sarah Hanson-Young. She notified Mr Morrison that she had received information not only about lip-stitching and

55. www.border.gov.au/ReportsandPublications/Documents/reviews-and-inquiries/review-conditions-circumstances-nauru.pdf

56. www.theguardian.com/world/interactive/2014/may/29/nauru-family-health-risks-report-in-full

57. www.theguardian.com/world/2014/may/30/nauru-detention-serious-health-risks-to-children-revealed-in-confidential-report

58. <https://asylumseekerscentre.org.au>

59. asylumseekerscentre.org.au/the-moss-inquiry/

STEVEN GLASS (CONTINUED)

other forms of self-harm, but also incidents of sexual abuse, rape, and guards offering marijuana to detainees in return for sexual favours.

After five days of protests, Mr Morrison responded by ordering the expulsion from Nauru of 10 social workers and teachers employed by Save the Children. These were dedicated, highly qualified individuals who had spent their careers looking after the welfare of children and who provided a small glimmer of hope and opportunity for the children trapped in the severe conditions of the Nauru detention centre. Now, suddenly, they were gone, just when the children needed them most.

The minister hurriedly arranged a media conference. He accused Save the Children workers of coaching and encouraging children to self-harm, and claimed that they had fabricated the allegations of rape and sexual abuse of detainees. An article in the Daily Telegraph reported that Save the Children staff members had been “involved in propaganda campaign to ‘manufacture’ conditions to embarrass the Abbott government”.

A recent report by an Australian government agency found that detainees on Nauru were living in high-density, non-air-conditioned accommodation in soft-walled marquees in a tropical climate. It concluded that these conditions contributed to a sense of apprehension amongst detainees for their personal safety and privacy.

This was not the much-maligned Forgotten Children report of the Australian Human Rights Commission headed by Professor Gillian Triggs.⁶⁰ It was an internal report by the Department of Immigration itself. The department set the terms of reference and the timing. It provided the funding and chose who would head the inquiry. Its choice was Philip Moss, a former

Commonwealth integrity Commissioner.

The Moss report did more than simply agree with Professor Triggs’s conclusion that the harsh conditions on Nauru contributed to the harm suffered by detainees. Mr Moss also found that:

- there was evidence of at least three rapes in the detention centre
- there were numerous other incidents of sexual assault, physical assault and sexual harassment. These included women being offered longer showers if they permitted security guards to watch them shower naked, and women being propositioned for sex
- women were being offered marijuana or cigarettes in return for sexual favours.

Mr Moss found no evidence that Save the Children staff had ever coached or encouraged detainees to engage in self-harm or to protest against Australia’s detention policies. They had been unfairly and summarily removed. He recommended they be considered for reinstatement.

Having handpicked the inquiry’s head and written its rules, it was not open to the government to shoot the messenger as it did with Professor Triggs. Here was evidence that it could not deny of the harm caused by detention. Nor could it any longer deny widespread misconduct and mismanagement at the Nauru detention centres, operated under Australian government contracts at a cost of half a billion dollars a year. The government had been caught victimising the very people doing everything they could to help children and adults survive in this unforgiving environment. Professor Triggs and her report were vindicated.

So how did the government respond this time? “Things happen,” said Prime Minister [Tony] Abbott.

60. humanrights.gov.au/sites/default/files/document/publication/forgotten_children_2014.pdf



A classroom on Nauru.

SENATE RESPONSE TO THE MOSS REPORT

As the subsequent report by the Senate Select Committee, *Taking responsibility: conditions and circumstances at Australia's Regional Processing Centre in Nauru*,⁶¹ published on 31 August 2015, found:

- Several submitters raised an incident that occurred in November 2013, in which an asylum seeker child was allegedly indecently assaulted by a cleaner engaged by Transfield Services at the RPC [regional processing centre]. Ms Kirsty Diallo, at that time engaged as a child protection worker by Save the Children Australia at the RPC, submitted that her manager confirmed to her in December 2013 that the incident had been reported to then Minister for Immigration and Border Protection, the Hon Scott Morrison. She described the government's failure to protect the child or take action to mitigate potential threats to children at the Centre, along with the minister's continued approval of the transfer of children to the RPC, as 'gross negligence', expressing her belief that '[i]t seems in Nauru ... that the Australian Government has been complicit through inaction in the institutional abuse of children'.
- A number of other submitters referenced the Open Letter to the Australian people, publicly released on 7 April 2015 by a group of 24 current and former RPC employees. The authors state that the government and the department had been aware of the sexual and physical assault of women and children for at least 17 months, 'long before the Moss Review was ever commissioned'.
- While many submitters were still concerned about publicly reporting these concerns, the Darwin Asylum Seeker Support and Advocacy Network (DASSAN) told the committee that the release of the Moss Review resulted in reports of abuse being put forward which had not previously been heard.
- Following the release of the Moss Review, DASSAN advocates have received a dramatic spike in reports of sexual and physical abuse at Nauru. Asylum seekers have stated that they finally feel their stories will be believed by the Department, and that they may now be kept safe from further harm.

61. aph.gov.au/Parliamentary_Business/Committees/Senate/Regional_processing_Nauru/Regional_processing_Nauru/Final_Report

- The committee received very concerning evidence relating to sexual harassment of young girls and women in the RPC.
- [Paediatrician] Professor David Isaacs told the committee that living conditions for women and children 'are unsafe and put vulnerable women and children at considerable risk of assault'. He further stated that there was a high level of risk in the design and provision of accommodation: 'The living conditions on Nauru put children at high risk of suffering physical or sexual abuse'. Reasons for the lack of safety for women and children are discussed below, but tended to include: lack of privacy, crowded accommodation, and the inability for vulnerable women and children to be removed from dangerous situations.
- Ms Caz Coleman, the former Transitional Contract Manager for The Salvation Army at the RPC, told the committee that sexual harassment was a concern from the beginning of the centre's operation: Despite having an adult male cohort, the issue of sexual harassment or assault was an obvious reality to be aware of in the early days of operation. It is not uncommon in such environments for sexual exploitation, harassment or assault to occur regardless of the cohort of clients. Ms Coleman continued that: ... the issue of domestic and family violence, sexual exploitation, harassment and assault and child protection matters were obvious from the outset of the centre establishment in Nauru.
- Former Save the Children employees told the committee that female asylum seekers regularly informed them of sexual harassment, with a number of examples provided to the committee of threats of sexual violence, ongoing sexual harassment and fear of abuse within the RPC.
- Ms Viktoria Vibhakar, a former Save the Children Australia employee, outlined an instance where a female asylum seeker made allegations of sexual harassment by a particular group of men and said she felt unsafe. The woman requested a move to a different location away from that group. Ms Vibhakar told the committee that the request was denied: "DIBP [Department of Immigration and Border Protection] had to approve all accommodation changes and they would not approve such a request unless there were a series of incident reports documenting harassment. It is of concern that a woman is required to experience multiple episodes of sexual harassment before she can be moved to a safer location."
- At a public hearing, Ms Vibhakar gave a further example of an instance of sexual harassment and the inability to remove the alleged victim from the situation. Ms Vibhakar told the committee that claims of sexual harassment made by a 16-year-old girl were investigated by the Nauruan Police Force, but the harassment by Commonwealth contracted employees did not cease. Ms Vibhakar said that the inability for vulnerable women and children to be removed from unsafe situations had a significant impact on mental health as well as personal safety: "It is notable that, despite reporting, police involvement and child protection intervention, Diana was subject to multiple incidents of sexual harassment. There was no option to remove her from this unsafe environment."
- The inability for vulnerable women and children to be removed from unsafe situations is clearly at odds with best practice that would apply in an Australian domestic context. Similarly, Ms Kirsty Diallo told the committee that the process for dealing with sexual assault reports was inadequate, and different to the process conducted in Australia. The process in Australia is that when someone reports a sexual assault, they would initially be taken to a hospital, usually, and there would be a forensic examination offered. When they arrive at the hospital they would meet with a qualified social worker or psychologist who would provide assistance, support and crisis counselling in relation to the event of the assault. Then a specialist unit that

investigates sexual assault would be called in if they wanted to follow through with a forensic examination. That is just not available in Nauru. Following that, most victims would be offered ongoing sexual assault counselling. Again, that is not available in Nauru.

Despite these attempts to apply some transparency to the situation on the island, and the desire on the part of many to have women and children protected, the stories of rape and violence continue.

A BAD SITUATION GETS WORSE

On 28 September 2015, the ABC's current affair program 7.30 Report revealed the ongoing sexual violence by reporting on the rape of one young refugee – including footage from the woman – who was out walking when she says she was dragged into the bushes by two masked Nauruan men. She says they raped her, hit her in the head and left her in a cave. It took four hours for Nauruan police to arrive.

The situation on Nauru appears to be getting more violent as this recent post by human rights lawyer Julian Burnside suggests:⁶²

Here's the latest report:

"I have heard some very frightening and distressing stories about events last night in women's detention in #Nauru.

22 February 2016. 1:12 am. Nauru.
Women's tent.

The guards blacked out the women's tent by cutting the power. Then 14 male guards and one female guard entered the tent. Women screamed in terror.

Two women in the single women's tent were strip-searched. They were screaming. One had a phone in her bra. A total of five people in the women's tent had phones taken. Communications with the camp have been cut.

A young woman was recently arrested for taking a piece of fruit from the dining room and at the time was seen dragged by her hair and beaten by Nauruan Police, leaving visible injuries. Terrified by the 1:12 am raid, she slashed her wrists and her body. She too was treated by IHMS and sent back to camp.

I know this is a true account of what happened.

Please share widely."

Later edit:

"Most of the women have histories of serious trauma. They would have experienced extreme post-traumatic stress reactions to the massed invasion into the blacked-out room of sleeping women. Any person would have experienced great terror. I can't imagine what went through the minds of those women who have already been assaulted, or witnessed assaults, by gangs of men in uniform ...

62. www.julianburnside.com.au/?s=22+February+2016

WOMEN ON NAURU: THE OFFICIAL FRAME

Both major parties have always understood the need to keep control of the public discourse surrounding the mandatory detention of asylum seekers – particularly when discussing the abuse of women and children. The strategy was initially about ensuring those seeking asylum never became known as people. Therefore the government introduced a numbering system that removed the person's name. This first became obvious when then Immigration Minister Philip Ruddock, referred to a sick and traumatised child seeking asylum as an "it", refusing to call the little boy by his name, Shayan Badraie.

Both parties maintained this approach and both parties have joined together to support the Border Force Act 2015 to gag all who work with refugees and asylum seekers. However, as media attention has turned to the question of sexual violence against women on Nauru, this frame has become a little unstable.

"PRESSURE" AND "BLACKMAIL"

When media attention followed the plight of Abyan (see pages 7-9) – a young Somali woman made pregnant through rape then shuttled back and forth from Nauru to Australia to Nauru and back to Australia as the government was unable to manage her need for an abortion, Immigration Minister Peter Dutton became more exasperated, saying he would not "bend to the pressure" of pregnant asylum seekers being held in Nauru who are seeking to come to Australia.⁶³

Minister Dutton told 2GB radio that people in the offshore detention centres were using "blackmail" to enter Australia, and that the government

would not be "taken for mugs". Dutton made this announcement as he refused entry to Australia to seven pregnant asylum seekers on Nauru who had requested to come to Australia for medical treatment.

Dutton went on to argue Australia helped pay for refurbishments at the Nauru hospital but he would not agree to transfer the women. "The racket that's been going here is that people at the margins come to Australia from Nauru," he said. "We can't send them back to Nauru and there are over 200 people in that category."⁶⁴

Dutton said the government had provided \$11 million for a hospital within the regional processing centre as well as \$26 million to help refurbish the Nauruan hospital.

"If people believe that they're going to somehow try to blackmail us into an outcome to come to Australia by saying we're not going to have medical assistance, we're not going to bend to that pressure," Dutton said. "I believe very strongly that we need to take a firm stance."⁶⁵

IMMIGRATION DEPARTMENT'S PROTESTS: "NOT GULAGS"

It appears the Australian government's control over its messaging about refugees is not as good as it once was.

On 8 March 2016 the head of the Department of Immigration and Border Protection (DIBP), Michael Pezzullo, had to launch a defence of Australia's immigration detention centres, publicly disputing claims they are "gulags" and "places of torture".

Mr Pezzullo took the unusual step of going public

63. www.abc.net.au/news/2015-10-15/peter-dutton-rules-out-transferring-pregnant-asylum-seekers/6856708

64. www.abc.net.au/pm/content/2015/s4332523.htm

with his grievances following a recent claim by a prominent psychiatrist that the centres recalled the gulags of Nazi Germany.

His media release said:

08-03-2016

**A message from Michael Pezzullo,
Secretary of the Department of Immigration
and Border Protection**⁶⁶

Consistent with the law of the land, and under direction of the government of the day, the Department of Immigration and Border Protection operates a policy of keeping children in detention only as a last resort, and releasing those children that might be in detention as soon as reasonably practicable.

This is a very contentious area of public policy and administration. Sometimes emotions rise and facts gets distorted. For the reputation of my Department and its officers, it is crucial that I set the record straight: the Department and its uniformed operational arm, the Australian Border Force, does not operate beyond the law, nor is it an immoral “rogue agency”.

Recent comparisons of immigration detention centres to “gulags”; suggestions that detention

involves a “public numbing and indifference” similar to that allegedly experienced in Nazi Germany; and persistent suggestions that detention facilities are places of “torture” are highly offensive, unwarranted and plainly wrong – and yet they continue to be made in some quarters.

In the same vein, any contention that prolonged immigration detention represents “reckless indifference and calculated cruelty”, in order to deter future boat arrivals, do not pass even the most basic fact check. The number of children in detention would not be falling if that were the case.

The resources devoted to providing medical and support services, and the commitment of doctors, service providers and departmental staff to the welfare of those individuals, undercuts emotive and inflammatory claims to the contrary.

The Department’s operations are underpinned by the law of the land. In this regard, the High Court of Australia has upheld the legal foundations for both “turn back” and “take back” maritime operations (in a case brought down in January 2015) as well as regional processing arrangements (in the case known as M68, brought down in January 2016).

65. <http://www.abc.net.au/news/2015-10-15/peter-dutton-rules-out-transferring-pregnant-asylum-seekers/6856708>

66. newsroom.border.gov.au/releases/immigration-detention-and-children-separating-fact-from-fiction

UNANSWERED QUESTIONS AND CONFUSING RULES

“NO ADVANTAGE”

On 28 June 2012, Prime Minister Julia Gillard announced the appointment of an Expert Panel to provide advice and recommendations as to how the Australian government could prevent people seeking asylum arriving in Australia by boat. This came at a time when numbers of people arriving at Christmas Island were growing and detention camps across Australia were at capacity.

The Expert Panel comprising three men, former Defence Force chief Angus Houston; chief executive of the Victorian Foundation for Survivors of Torture, Paris Aristotle and former Foreign Affairs secretary Michael L'Estrange held round table meetings with government, non-government and parliamentary stakeholders. Written submissions were also called for.

A member of Australian Women in Support of Women on Nauru, representing the Asylum Seeker Resource Centre, attended two round table forums held by the Expert Panel. Sister Brigid Arthur and Pamela Curr attended the handing down of the report in Parliament House, Canberra. The refugee and human rights sector was visibly shocked as

the recommendation to recommence the offshore camps was announced.

What was most devastating, however, was the introduction of the principle of “No Advantage”. Despite a barrage of questions from media and the refugee sector over the following weeks, there was no clear explanation offered as to what exactly this meant.

The basic premise was that asylum seekers arriving after 13 August 2012 would be given no advantage over those who waited for a humanitarian visa in a refugee camp overseas. There was no explanation of how the policy would be implemented, or how long asylum seekers would have to wait.

Four years later, the lived reality of refugees in Australia has illuminated this principle in the following severe policy applications:

- No Advantage has left 30,000 people in the community in limbo. Processing of claims has only just started with less than a handful of decisions.
- No Advantage has created 6000 people in the community on bridging visas. Many have had their claims processed with positive decisions.

Even these people are now being asked to go back and start again. Many are without income or the right to work.

- No Advantage stripped away the right for unaccompanied minors to see their families or ever be reunited with them.
- Worst of all: No Advantage underpins the punitive offshore regime where even death by violence, death by medical neglect, rape of women and sexual abuse of children has not deterred either the current or the previous government from this policy.

NAURU WON'T SETTLE REFUGEES

The Nauru government has been clear in its policy that refugees settled in Nauru do not have a long-term future there. In 2014 visas for five years were issued.⁶⁷ These have now been extended to 10 years as long as Australia pays all living costs, housing and agency support. The Nauruan government – such as it is – has been explicit in refusing to allow refugees to stay on Nauru longer than 10 years.

The Australian government continues to talk about other third-country solutions. The policy seems to be that if refugees were resettled in poor Asian and

South Pacific countries, this might destroy the people smugglers' model. This is the government's belief that other countries in the Pacific region or South-East Asia would be willing to take responsibility for Australia's refugee community. To date, the only country that Australia has "successfully" negotiated with has been Cambodia. But now the Cambodian solution is an acknowledged failure, with \$55 million failing to provide resettlement for even five refugees.⁶⁸ At the time of writing, all five refugees have since left Cambodia.

Kyrgyzstan, East Timor, the Philippines and a tranche of South American countries have all refused overtures to participate in long-term resettlement schemes for Australia's refugee population.

Also at the time of writing, no third country is willing to take the almost 1000 refugees and asylum seekers on Nauru, nor the almost 1000 refugees being held on Manus island. New Zealand, however, had offered to take 150 refugees from Australia's offshore detention centres, but the Australian government refused this.

Neither the governing Coalition nor the Labor opposition has any solution to the problem created by their mutual refusal to create a viable, safe way forward for refugees.

67. www.abc.net.au/news/2014-04-28/an-nauru-refugees-to-be-given-work-visas/5416560

68. smh.com.au/federal-politics/political-news/first-failure-of-australias-55-million-cambodia-refugee-plan-20151016-gkb42q.html

SECURITY ARRANGEMENTS ON NAURU

HOW SECURITY OPERATES IN THEORY

Security services in the Nauru regional processing centres are provided by private contractors: the Australian government engaged Broadspectrum (formerly Transfield) to establish the facility on Nauru when it reopened the detention centre in September 2012.⁶⁹ Broadspectrum's obligations were extended in further contracts made in January 2013, March 2014, October 2015,⁷⁰ and February 2016.⁷¹

Broadspectrum is responsible for providing "garrison and welfare" services on both Nauru and Manus Island.⁷²

Broadspectrum has subcontracted some of its obligations to Wilson Security. In September 2012, at the beginning of Broadspectrum's contractual relationship with the Australian government, it engaged Wilson to provide security and escort services.⁷³ Wilson has continued to provide security and escort services under subsequent contracts. Broadspectrum retains ultimate responsibility for provision of the services to the Australian government, and is responsible for the acts of Wilson and its staff.

As at 1 May 2015, Broadspectrum employed 275 expatriate staff and 277 local staff at the detention centre in Nauru. This does not include staff employed by subcontractors. Around the same time, Wilson employed 370 expatriate staff, as well as

engaging two local Nauruan companies with about 456 local staff. The population of Nauru is about 10,000,⁷⁴ meaning that more than 10 per cent of the population is made up of Broadspectrum, Wilson and their subcontractors' staff.

There is also a police presence on Nauru, although inquiries such as the Moss Review (see pages 37-9) have found that much of the policing at the centre is, in fact, done by the Australian government's contractors.

ACCOMMODATION AND THE "OPEN CENTRE"

There are two accommodation sites within the Nauru detention centre, known as Regional Processing Centres (RPC) 2 and 3:

- RPC2 accommodates single adult male asylum seekers
- RPC3 accommodates asylum seekers in families, single adult females and unaccompanied minors.

"Open centre" arrangements were established in late 2015, meaning there is only "minimal security".

The open centre arrangements create new and different security concerns for women, particularly given reports of sexual assault of women outside the centre. There is no discussion in Broadspectrum or Wilson documents of how they approach the challenge of providing security under the "open centre" conditions.

69. Transfield Services, "Submission 29 - Select Committee on the Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru", p.7

70. "Transfield Services signs Deed with DIBP", 28 October 2015, ASX Announcement tse.live.irmau.com/IRM/Company/ShowPage.aspx/PDFs/197910000000/TransfieldServicespreferredtendererforDIBPcontract.

71. DIBP extends Broadspectrum's contract for 12 months to allow Department to revise scope of tender; Company further up-grades FY2016 guidance" 8 February 2016 ASX Announcement

tse.live.irmau.com/IRM/Company/ShowPage.aspx/PDFs/197910000000/TransfieldServicespreferredtendererforDIBPcontract.

72. Transfield, Manus and Nauru Fact Sheet, transfieldservices.com/sectors/social/Manus_and_Nauru_fact_sheet [accessed 19 February 2016]

73. Transfield Services, "Submission 29 - Select Committee on the Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru", p.7

74. Select Committee Report "Taking responsibility: conditions and circumstances at Australia's Regional Processing Centre in Nauru", 31 August 2015

WHAT BROADSPECTRUM SAYS IT DOES

Under its 2014 contract to provide “garrison” services, Broadspectrum describes its responsibilities as: “Management and maintenance of assets, cleaning, security, catering, environmental management, work health and safety, management of emergencies, logistics, personnel accommodation and transport and escort services.”⁷⁵

The company claims it has a commitment to “providing high quality services in Nauru and services that promote the health, welfare and wellbeing”⁷⁶ of people in the detention centres. Further, it aims “to create an environment in which transferees and staff feel safe, supported and able to raise any issues of concern”.⁷⁷

The company relies on its policies regarding recruitment, training and management of staff to deliver services at the standard required.⁷⁸ Broadspectrum also refers to a range of policies and procedures that are intended to meet the security and welfare needs of detainees. These include:

- reporting incidences of assault, bullying, abuse and harassment – both internally and to the Nauruan police
- prohibiting discrimination on the basis of sex, gender, pregnancy, parental or marital status, among others
- prohibiting abusive, violent or exploitative behaviours.

The company provides training to staff about these policies and procedures to create an environment of “cultural awareness”, and to develop skills in “de-escalation”.

Broadspectrum also oversees the work of its subcontractor, Wilson, which it says is required to “comply with our high standards of conduct, as well as the Department Centre Guidelines”.⁷⁹

Broadspectrum engages in both “ad hoc audits and reviews”, as well as “structured reporting and performance assessment and management in connection with specific incidents or issues as circumstances require”. Teams from Broadspectrum and Wilson meet daily and Wilson provides reports on a daily, weekly and monthly basis. The companies also attend regular meetings with and provide reports to other parties with an interest in security at the centres, including the Department of Immigration and Border Protection and the Nauruan police.⁸⁰

WHAT WILSON SECURITY SAYS IT DOES

Wilson says its responsibilities at the detention centre include:

- access control procedures
- security and welfare checks
- perimeter security
- identification cards
- incident management and response
- intelligence management
- conducting safety and security exercises
- managing detainees engaged in illegal or anti-social behaviour
- investigations
- site risk assessment
- property management
- communicating safety and security information
- maintaining an operations log.⁸¹

75. Transfield Services, “Submission 29 – Select Committee on the Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru”, p.7

76. Transfield Services, “Submission 29 – Select Committee on the Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru”, p.9

77. Transfield Services, “Submission 29 – Select Committee on the Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru”, p.1

78. Transfield Services, “Submission 29 – Select Committee on the Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru”, p.2

79. Transfield Services, “Submission 29 – Select Committee on the Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru”, p.14

SECURITY ARRANGEMENTS ON NAURU

Wilson refers to a range of policies and procedures it says are in place to support the provision of these services. These policies cover matters such as recruitment, training and supervision of staff, security management and incident-response plans, complaints management and investigation processes, and incident reporting protocols.

SECURITY MEASURES FOR WOMEN

In its submission to a parliamentary inquiry, Wilson recognises that women and children are “particularly vulnerable” at the detention centre. It says one of its key harm-minimisation strategies is employing a balance of male and female staff, and including women in supervisory positions. It does not, however, mention any other specific strategies for minimising harm to women and children.⁸²

However, Broadspectrum claims that, as part of its commitment to equality and diversity, “female personnel are utilised for culturally sensitive roles and responsibilities”⁸³ at the regional processing centres.

According to Broadspectrum, Wilson employs a large number of female local and expatriate staff. Broadspectrum says this is a “significant and deliberate decision” given the number of children and adult females detained in Nauru. The company claims it takes care to ensure female officers are deployed in areas where women, children and families are detained.⁸⁴

Broadspectrum claims there are restrictions on how male security personnel and other staff interact with women at the centre, as stated in the company’s policies and procedures. The company also claims male security personnel are not permitted to:

- undertake security screening of female detainees
- enter female ablution areas (unless in an emergency)
- enter the single adult female accommodation areas, unless accompanied by a female security officer.⁸⁵

There is a wealth of evidence to show that these restrictions are not effective in practice – as

confirmed by the Moss Review (see pages 38-9).

These claims are also refuted by numerous accounts of male guards sitting outside the ablution blocks, just as there are numerous accounts of male guards using body searches as a way of sexually harassing and humiliating women.

Nauruan male guards are equipped with Garret (see image below) hand-help scanning devices. In Australian airports these are waved over the body without touching, however, on Nauru the guards pass the scanners close to the body, touching the breasts and buttocks of women and children as they pass through the gates. Women have reported that guards have pushed the scanner between their legs and up into their groin. There is photographic evidence of guards deploying these scanners daily as children went to school or adults went to medical services for which they had to leave the compound.



Women on Nauru have reported guards using the scanners invasively.

HOW SECURITY OPERATES IN PRACTICE

NAURUAN POLICE

Nauruan police are responsible for investigating breaches of the criminal code throughout Nauru, including at the detention centre.⁸⁶ This is acknowledged in the policies of the contractors.⁸⁷

However, the Moss Review⁸⁸ found that although the Nauruan police are technically responsible for administering the criminal code, in practice, much of the policing at the centre is done by Broadspectrum and Wilson.⁸⁹

80. Transfield Services, “Submission 29 – Select Committee on the Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru”, p.14

81. Wilson Security, “Submission 21 – Select Committee on the Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru”, p.4

82. Wilson Security, “Submission 21 – Select Committee on the Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru”, p.7

83. Transfield Services, “Submission 29 – Select Committee on the Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru”, p.5

The review found that the relationship between the police, Broadspectrum and Wilson was ad hoc and based on individuals rather than a formal structure. There is also confused reporting to the Nauruan government due to mixed lines of responsibility between the police, the Justice Department, border control and the President of Nauru. According to the Moss Review, greater clarity of roles is required, and the primacy of the Nauru police force role must be recognised.⁹⁰

The 2015 Select Committee inquiry found the Nauru police force lacked capacity: it has limited resources, skills and training, particularly in dealing with issues such as sexual assault and trauma. Also cited is a lack of independence in investigation, particularly regarding offences committed by Nauruans against non-Nauruans.⁹¹

Moss noted the under-reporting of offences, particularly physical and sexual assault. He recommended cultivating greater confidence in the Nauru legal system as a prerequisite to addressing this.⁹² One of Moss's particular recommendations was greater use of "community policing" strategies by the Nauru police to increase their presence at and around the detention centres.

The Nauru police force's lack of capacity is set against a backdrop of limited rule of law and other frameworks for protection of vulnerable people. For example, the Select Committee noted the absence of a child protection system.⁹³ Submissions from the Hon Geoffrey Eames AM QC, former chief justice, and Mr Peter Law, former chief magistrate on Nauru, to the committee expressed grave concerns at the lack of rule of law and the inability of the Nauru police to protect from or investigate attacks and assaults on non-Nauruans. In spite of attacks and rapes of refugee women in the community, no Nauruan has been charged or investigated.

COMPLAINTS AND INCIDENT REPORTING

Broadspectrum has a procedure in place for detainees and staff to report concerns or complaints. The company's contract with the Australian government requires it to "record, report and respond to certain types of events at the Centre which are characterised as 'incidents'".⁹⁴

The contract for provision of "welfare services" also requires the company to address requests for personal items or issues of concern. The contract requires the company to respond to all requests and complaints within a reasonable time and that complaints be treated with confidentiality and integrity.⁹⁵

The requests and complaints process is administered and managed by Broadspectrum, while the incident reporting, management and investigation is managed by Wilson.⁹⁶

Reports such as the Moss Review and the 2015 Select Committee report, among others, provide extensive evidence that complaint management and incident reporting are not meeting required standards.

The Select Committee noted, for example:

Wilson Security and Transfield Services [are not] properly accountable to the Commonwealth despite the significant investment in their services. The committee has found that the Department of Immigration and Border Protection does not have full knowledge of incidents occurring on Nauru, owing to their inability to scrutinise their contracted service providers. A representative of the department acknowledged that 'the current contract does not provide as strong an abatement regime as the proposed contract', and told the committee that no financial abatements or penalties have been triggered under the current Performance Management Framework. The committee believes that the shortcomings of the current framework offer no reassurance that the department is fully aware of events on Nauru."⁹⁷

84. Transfield Services, "Submission 29 – Select Committee on the Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru", p.15

85. Transfield Services, "Submission 29 – Select Committee on the Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru", p.15

86. Review into recent allegations relating to conditions and circumstances at the Regional Processing Centre in Nauru, 2015, pp.77

87. Wilson Security, "Submission 21 – Select Committee on the Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru", p.10

88. Review into recent allegations relating to conditions and circumstances at the Regional Processing Centre in Nauru, 2015

89. Castan Centre, "Submission 18 – Select Committee on the Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru" p.4

PUBLIC OPINION SHIFTS

Despite the apparent appeal of such a hardline policy to some sections of the Australian public, the treatment of asylum seekers is increasingly a divisive and hotly contested issue. In February this year the plight of baby Asha catalysed action nationally across a number of professional, religious and community groups.

BABY ASHA

Baby Asha was born in Australia to two refugee parents. When she was five months old, she was sent back to Nauru with her parents. At the age of one, the little girl was badly burnt by boiling water that was accidentally spilled within the tent. She was flown to Brisbane hospital and admitted to Lady Cilento Children's Hospital. When it became clear the federal government was preparing to return Asha and her parents to Nauru, people concerned for the child's safety surrounded the hospital⁹⁸ and began a vigil to ensure Asha was not sent back to an island that was ill-equipped to manage her injuries. At the same time doctors and nurses refused to release the child until the government guaranteed she would be released into the community, not taken to Nauru. They were eventually successful, and Asha and her parents are now in community housing.

The baby Asha case spurred a national response from doctors and nurses⁹⁹ who announced they would not release any refugee children in their care to be returned to Nauru. As this campaign escalated, it became clear that the federal government was planning to send 267 refugees back to Nauru – many of these had been brought to Australia for mental and physical health reasons, including complex pregnancies and abortions. In response, churches across Australia invoked the ancient principle of sanctuary.¹⁰⁰ This developed into a highly successful social media campaign: #LetThemStay. While the federal government has said it intends to return all 267 to Nauru, at the time of writing, none of them had been sent back.

Four weeks into the 2016 election campaign, both the Coalition and Labor have again endorsed this hardline policy, although some Labor MPs and candidates have broken ranks, including Anna Burke, Melissa Parke, Senator Sue Lyons, Sophie Ismail, Justine Elliot, Janelle Saffin and Kelvin Thomson. The Greens continue to support the closure of detention centres on Nauru and Manus Island.

90. Review into recent allegations relating to conditions and circumstances at the Regional Processing Centre in Nauru, 2015, p.77

91. Select Committee on the Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru, p.19

92. Review into recent allegations relating to conditions and circumstances at the Regional Processing Centre in Nauru, 2015, p.77a

93. Select Committee on the Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru, p.22

94. Transfield Services, "Submission 29 – Select Committee on the Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru", p.15

95. Transfield Services, "Submission 29 – Select Committee on the Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru", p.15

RECOMMENDATIONS

ASYLUM SEEKERS AND REFUGEES

AUSTRALIAN WOMEN IN SUPPORT OF WOMEN ON NAURU RECOMMENDS:

- As a matter of urgency and reputation Australia must once again agree to abide by the international conventions that we have signed in good faith. These include commitments to: the UN Convention Relating to the Status of Refugees; the UN Convention on the Rights of the Child; the UN Convention against Torture; and the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW). In abiding by these Conventions Australia must end the current indefinite mandatory detention policy.
- The Australian government must close Nauru as a matter of urgency. Nauru is unsafe for refugees and asylum seekers, particularly women. This is evidenced by the fact that not one Nauruan has been investigated or charged with rape or assault of a non-Nauruan in spite of multiple complaints.
- The Australian government must transfer refugees and asylum seekers on Nauru and Manus Island to Australia to have their claims for protection assessed and to allow those found to be refugees the right to settle in Australia. This was the solution that ended offshore processing under the Howard government.
- The Australian government should work with regional neighbours such as Indonesia and Malaysia to fund and facilitate the processing of asylum seekers.
- The Australian government needs to increase its intake of refugees from the Asia-Pacific region to 10,000 per year and to increase its overall refugee intake to a level that recognises there is a global crisis as people seek safety from war and persecution.
- The Australian government must prioritise rescues at sea rather than pushbacks. The boats have not stopped coming to Australia. Immigration Minister Peter Dutton has said: “Since the start of Operation Sovereign Borders in September 2013 when the government came to power, 25 boats carrying 698 people had been turned back.”
- The Australian government must repeal the Australian Border Force Act 2015, which makes

96. Transfield Services, Submission 29 – Select Committee on the Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru, p 15.

97. Select Committee on the Recent Allegations relating to Conditions and Circumstances at the Regional Processing Centre in Nauru, p 125.

98. abc.net.au/news/2016-02-20/refugee-advocates-gather-at-hospital-to-stop-baby's-removal/7186906

99. abc.net.au/pm/content/2015/s4330123.htm

100. abc.net.au/news/2016-02-04/churches-offer-sanctuary-to-asylum-seekers/7138484

it an offence for whistle-blowers to report on the conditions in its detention and processing centres.

- The Australian government must end its practice of contracting out the management of its detention and processing centres to private companies.
- The Australian government must allow access to Nauru by the media, Amnesty International, the United Nations and the Red Cross to all its detention and processing centres.
- The Australian government should implement the recommendations of earlier inquiries including the Palmer Inquiry into the Unlawful Detention of Cornelia Rau and in particular the training of staff to recognise mental health problems¹⁰¹ and appropriate treatment of detainees with mental health problems. Previous inquiries have provided the Commonwealth of Australia with an ocean of knowledge that its management of detention can lead to damage, misdiagnoses and breaches of the duty of care and should be acted upon.
- The Australian government must allow all detainees within its processing and detention centres access to medical practitioners of the detainee's choice to assess their mental and physical health.
- Lawyers must be able to have access to clients to advise and to arrange expert advice or services.
- Gender and culturally specific medical treatment and counselling by independent professional staff must be available at all times for asylum seekers and refugees.
- All cases of abuse and neglect must be investigated by an Inquiry with powers of subpoena. Investigation must at all time respect the privacy and confidentiality of victims. Those who have been harmed as a result of actions by the Australian government should be compensated.

THE ISLAND NATION OF NAURU

Nauru and its people have been victims of Australia's capricious greed and political expediency. They deserve better. The Australian government needs to recognise the damage done by its exploitation of the island, its resources and location. This recognition needs to take the form of a generous industry-restructuring package that will support the island to rebuild its physical and environmental resilience, its economy and to work with civil society to rebuild its democratic infrastructure.

Nauruan women are victims of domestic violence and discriminated against in ways that have no doubt been exacerbated by colonisation and the exploitation of resources. The lack of services for Nauruan women has been exposed by the lack of services for asylum seekers who are detained on Nauru and demonstrate that Australia should extend its aid program for Nauruan women, ensuring that local women are involved in decision making and the administration of projects. It has taken until 2016 for Nauru to pass laws that criminalise marital rape.

Australia will fail in its commitment to reduce levels of domestic violence in the Pacific if it does not reverse Pacific aid cuts. In 2015-16, the Australian government allocated \$3.5 million to "human development" in Nauru. This included support for health infrastructure management and senior health staffing. It also included a "gender-based violence counsellor/specialist" who could "establish a counselling service at the hospital" and developing standards for responding to domestic violence.

In the latest Department of Foreign Affairs and Trade aid investment plan for Nauru 2015/16–2018/19, there is only one mention of "women" and this is in the context that all programs will include empowerment of women.¹⁰² There is no specific mention of domestic violence, health services for women, or programs to address the deep-seated discrimination against women in Nauru.

101. border.gov.au/ReportsandPublications/Documents/reviews-and-inquiries/palmer-report.pdf 6.7-6.13, 7.1,7.13

102. border.gov.au/ReportsandPublications/Documents/reviews-and-inquiries/palmer-report.pdf 6.7-6.13, 7.1,7.13

PAPUA NEW GUINEA

Violence against women in Papua New Guinea has been well documented. The case of S99 has highlighted the lack of specialist gynaecological and abortion services in PNG. An ABC report¹⁰³ suggests that detention centre staff could pose a threat to local women. According to this report, at least one local PNG woman has been sexually assaulted by security guards on Manus Island. It is alleged that

after drinking with Wilson security guards, she was drugged and later found naked and unconscious in a bathroom at the security staff quarters. Instead of spending billions on detention centres, the Australian government should be increasing gender-specific aid in Papua New Guinea, and throughout the Pacific region, and hold those who have committed crimes in its detention centres accountable and compensate any local people who are damaged, as well as asylum seeker victims.

103. <http://www.abc.net.au/news/2016-06-02/immigration-dept-releases-report-into-alleged-manus-island-rape/7472370>

