



## Australian offshore processing

### Offshore processing statistics

- As of June 2018, there are currently 219 people detained on Nauru. This includes 23 women, and 14 children.<sup>1</sup>
- As of May 2018, there were another 686 people living in the community in Nauru.<sup>2</sup>
- As of May 2018, there are 716 people in Papua New Guinea, including 65 who are in Port Moresby for medical treatment.<sup>3</sup>
- Of these 716 people: 567 are on Manus, 113 are in Port Moresby and 36 are in the Papua New Guinea community.<sup>4</sup>
- As of 21 May 2018,
  - 583 of the people still in Papua New Guinea have been recognised as refugees, and 133 have been deemed to be failed asylum seekers.<sup>5</sup>
- Since offshore processing began in 2013, 3127 people have been sent to Nauru and Papua New Guinea as of February 2017.<sup>6</sup>
- Of those people transferred to offshore processing centres 7 are deceased, as of 22 March 2017.<sup>7</sup>
- Since the beginning of offshore processing in 2013, 494 people have been transferred to Australia from Manus and Nauru for medical assistance, 31 of these were children.<sup>8</sup>
- In this time, 24 Asylum seekers and refugees were transferred from Nauru to Australia for Termination of Pregnancy.<sup>9</sup>
- As of 27 February 2017<sup>10</sup>, in Nauru there has been no people deemed not to be refugees<sup>11</sup>.

### Incidents in detention:

- In April 2017, a Senate Inquiry Report into abuses on Nauru and Manus revealed 'allegations of abuse and neglect (which have been made publicly available) are prevalent and sustained'.<sup>12</sup>
- This report indicated that there were a number of violations committed by staff at Nauru Regional Processing Centre (RPC) including 'taunting', and sexual and physical assault.<sup>13</sup>
- On Nauru in 2015, The Guardian Australia reported<sup>14</sup>:
  - 25 incidences of self-harm and 155 incidences of threatened self-harm in 2015
  - nine incidents of sexual assault
  - 48 assaults, and 57 assaults on minors
- Currently on Nauru, there is a growing number of children that are self-harming, attempting suicide and engaging in hunger strikes. Children have also been diagnosed with Resignation Syndrome, a psychological disorder where children gradually withdraw from their surroundings 'refusing to eat, drink, toilet, leave their beds, speak, or even open their eyes. They are sometimes completely unresponsive to stimuli'.<sup>15</sup>

### Under Australia's offshore processing policies<sup>16</sup>:

<sup>1</sup> Australian Government, Department of Home Affairs, 30 June 2018, *Immigration Detention and Community Statistics Summary*, pp. 4, <https://www.homeaffairs.gov.au/ReportsandPublications/Documents/statistics/immigration-detention-statistics-june-18.pdf>

<sup>2</sup> Parliament of Australia, Legal and Constitutional Affairs, 21 May 2018, *Budget Estimates Summary 2017-2018*, pp.111, [http://parlinfo.aph.gov.au/parlInfo/download/committees/estimate/0490c3ad-512d-453c-8526-3dff9705b43c/toc\\_pdf/Legal%20and%20Constitutional%20Affairs%20Legislation%20Committee\\_2018\\_05\\_21\\_6144.pdf;fileType=application%2Fpdf#search=%22committees/estimate/0490c3ad-512d-453c-8526-3dff9705b43c/0000%22](http://parlinfo.aph.gov.au/parlInfo/download/committees/estimate/0490c3ad-512d-453c-8526-3dff9705b43c/toc_pdf/Legal%20and%20Constitutional%20Affairs%20Legislation%20Committee_2018_05_21_6144.pdf;fileType=application%2Fpdf#search=%22committees/estimate/0490c3ad-512d-453c-8526-3dff9705b43c/0000%22)

<sup>3</sup> Parliament of Australia, Legal and Constitutional Affairs, 21 May 2018, *Budget Estimates Summary 2017-2018*, pp.114, [http://parlinfo.aph.gov.au/parlInfo/download/committees/estimate/0490c3ad-512d-453c-8526-3dff9705b43c/toc\\_pdf/Legal%20and%20Constitutional%20Affairs%20Legislation%20Committee\\_2018\\_05\\_21\\_6144.pdf;fileType=application%2Fpdf#search=%22committees/estimate/0490c3ad-512d-453c-8526-3dff9705b43c/0000%22](http://parlinfo.aph.gov.au/parlInfo/download/committees/estimate/0490c3ad-512d-453c-8526-3dff9705b43c/toc_pdf/Legal%20and%20Constitutional%20Affairs%20Legislation%20Committee_2018_05_21_6144.pdf;fileType=application%2Fpdf#search=%22committees/estimate/0490c3ad-512d-453c-8526-3dff9705b43c/0000%22)

<sup>4</sup> Parliament of Australia, Legal and Constitutional Affairs, May 2018, *2018-2019 Budget Estimates*, Home Affairs Portfolio, Question taken on notice BE18/246, [https://www.aph.gov.au/Parliamentary\\_Business/Senate\\_Estimates/legcon](https://www.aph.gov.au/Parliamentary_Business/Senate_Estimates/legcon)

<sup>5</sup> Parliament of Australia, Legal and Constitutional Affairs, May 2018, *2018-2019 Budget Estimates*, Home Affairs Portfolio, Question taken on notice BE18/246, [https://www.aph.gov.au/Parliamentary\\_Business/Senate\\_Estimates/legcon](https://www.aph.gov.au/Parliamentary_Business/Senate_Estimates/legcon)

<sup>6</sup> Parliament of Australia, Legal and Constitutional Affairs, February 2017, *2016-2017 Additional Estimates*, Immigration and Border Protection Portfolio, Question taken on notice AE17/170, [https://www.aph.gov.au/Parliamentary\\_Business/Senate\\_Estimates/legconctte/estimates/add1617/DIBP/index](https://www.aph.gov.au/Parliamentary_Business/Senate_Estimates/legconctte/estimates/add1617/DIBP/index)

<sup>7</sup> Parliament of Australia, Legal and Constitutional Affairs, February 2017, *2016-2017 Additional Estimates*, Immigration and Border Protection Portfolio, Question taken on notice AE17/171, [https://www.aph.gov.au/Parliamentary\\_Business/Senate\\_Estimates/legconctte/estimates/add1617/DIBP/index](https://www.aph.gov.au/Parliamentary_Business/Senate_Estimates/legconctte/estimates/add1617/DIBP/index)

<sup>8</sup> Parliament of Australia, Legal and Constitutional Affairs, *2017-2018 Supplementary Budget Estimates Hearings*, Question on notice 142 AE18/147, <https://www.aph.gov.au/api/qon/download/estimatesquestions/EstimatesQuestion-Committeeed6-EstimatesRoundld2-Portfoliod20-QuestionNumber142>

<sup>9</sup> Parliament of Australia, Legal and Constitutional Affairs, *2017-2018 Supplementary Budget Estimates Hearings*, Home Affairs Portfolio, Question on notice 142 AE18/147, <https://www.aph.gov.au/api/qon/download/estimatesquestions/EstimatesQuestion-Committeeed6-EstimatesRoundld2-Portfoliod20-QuestionNumber142>

<sup>10</sup> Parliament of Australia, Legal and Constitutional Affairs, February 2017, *2016-2017 Additional Estimates*, Immigration and Border Protection Portfolio, Question taken on notice AE17/172, [https://www.aph.gov.au/Parliamentary\\_Business/Senate\\_Estimates/legconctte/estimates/add1617/DIBP/index](https://www.aph.gov.au/Parliamentary_Business/Senate_Estimates/legconctte/estimates/add1617/DIBP/index)

<sup>11</sup> All transferees still have options within the refugee determination process.

<sup>12</sup> Parliament of Australia, Senate Committees, April 2017, *Serious allegations of abuse, self-harm and neglect of asylum seekers in relation to the Nauru Regional Processing Centre, and any like allegations in relation to the Manus Regional Processing Centre*, Chapter 7, Section 7.14.

[https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Legal\\_and\\_Constitutional\\_Affairs/NauruandManusRPCs/Report/c0](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/NauruandManusRPCs/Report/c0)

<sup>13</sup> Parliament of Australia, Senate Committees, April 2017, *Serious allegations of abuse, self-harm and neglect of asylum seekers in relation to the Nauru Regional Processing Centre, and any like allegations in relation to the Manus Regional Processing Centre*, Chapter 2, Section 2.17-2.28.

[https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Legal\\_and\\_Constitutional\\_Affairs/NauruandManusRPCs/Report/c02](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_Affairs/NauruandManusRPCs/Report/c02)

<sup>14</sup> Evershed, N, Liu, R, Farrell, P, and Davidson, H 2016, 'The Nauru Files: The lives of asylum seekers in detention detailed in a unique database', *The Guardian Australia*, 10 August. Last accessed 24/8/2018. <https://www.theguardian.com/australia-news/ng-interactive/2016/aug/10/the-nauru-files-the-lives-of-asylum-seekers-in-detention-detailed-in-a-unique-database-interactive>

<sup>15</sup> Doherty, B 2018, 'Nauru self-harm 'contagion' as 12-year-old refugee tries to set herself alight', *The Guardian Australia*, 23 August. Last accessed 24/8/18.

<https://www.theguardian.com/australia-news/2018/aug/23/nauru-self-harm-contagion-as-12-year-old-refugee-tries-to-set-herself-alight>

<sup>16</sup> Kaldor Centre for International Refugee Law, Offshore processing: an overview, KCIRL, Sydney, viewed 23 August 2018, <http://www.kaldorcentre.unsw.edu.au/publication/offshore-processing-overview>.

- Australia automatically sends Asylum seekers who arrive by boat to either Nauru or Manus Island in Papua New Guinea (PNG), where their refugee claims are processed/ determined.
- Their refugee claims are determined in accordance with the domestic law of PNG and Nauru.
- Those that are sent to Nauru or PNG are permanently denied the opportunity to settle in Australia. They can resettle in PNG, Nauru or any other participating nation, but not in Australia.
- They may be brought back to Australia temporarily in certain circumstances (such as to receive medical treatment), at which point they are called 'transitory persons'. However, all transitory persons must be sent back offshore as soon as the reason for their return to Australia has been resolved.
- As of October 2017, the Manus Island detention centre was closed after PNG's Supreme Court ruled that the detention of refugees on Manus was illegal under PNG's constitution and in breach of fundamental human rights. The remaining 600 detainees were forcibly evicted to other facilities within Manus, despite concerns regarding the adequacy and safety of those facilities.<sup>17</sup>

#### Australia's offshore processing policy violates the following key International Laws:

- **The Refugee Convention** – States shall not impose penalties on refugees for entering Australia without permission or unnecessarily restrict their freedom of movement.<sup>18</sup>
- **Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment** – No State Party shall expel or extradite a person to another State where there are substantial grounds for believing they would be in danger of being subjected to torture.<sup>19</sup>
- **Convention on the Rights of the Child** – No child shall be deprived of his or her liberty arbitrarily, and if they are, they must be treated with humanity. The detention of a child shall be used only as a measure of last resort and for the shortest appropriate period of time.<sup>20</sup>
- **International Covenant on Civil and Political Rights** – No one shall be subjected to arbitrary arrest or detention, and if they are, they must be treated with humanity.<sup>21</sup>
- **International Covenant on Economic, Social and Cultural Rights** - States Parties recognize the right of everyone to an adequate standard of living and the enjoyment of the highest attainable standard of physical and mental health.<sup>22</sup>

#### United Nations Criticisms of Australia's offshore processing:

- The United Nations have been consistently critical of Australia's offshore processing policy.
- In July 2017, UNHCR chief Filippo Grandi stated that Australia's offshore processing policy 'has caused extensive, avoidable suffering for far too long'. He also named the Australian government's decision deny reunions for the most vulnerable refugees with family ties in Australia as 'contrary to the fundamental principles of family unity and refugee protection, and to common decency'.<sup>23</sup>
- Also in July 2017, the UN Committee on Economic, Social and Cultural Rights stated, 'The Committee also remains concerned at the State party's policy of transferring asylum seekers to the regional processing centres for the processing of their claims, despite public reports on the harsh conditions prevailing in those centres, including for children. This includes acute isolation, overcrowding, limited access to basic services, including health care and education, allegations of sexual abuse by the service providers, acts of intimidation, taunting and provocation, and continuing reports of suicide and self-harm'.<sup>24</sup>
- In 2016, after a visit to Nauru and Manus, UNHCR observed that 'the prolonged, arbitrary and indefinite nature of immigration detention in conjunction with a profound hopelessness in the context of no durable settlement options has corroded these individuals' resilience and rendered them vulnerable to alarming levels of mental illness'.<sup>25</sup>
- In 2015, The UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment stated 'that the Government of Australia, by failing to amend the provisions of the two bills to comply with the State's obligations under international human rights law, particularly with regard to the rights of migrants, and asylum seekers, including children, has

<sup>17</sup> Fox, L 2017, 'Manus Island detention centre to permanently close today, 600 men refusing to leave', ABC NEWS, 31 October. Last accessed 24 August 2018, <http://www.abc.net.au/news/2017-10-31/manus-island-detention-centre-to-close-at-5pm-today/9102768>.

<sup>18</sup> The Refugee Convention, Article 31, <http://www.unhcr.org/4ca34be29.pdf>.

<sup>19</sup> Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Article 3, <https://www.ohchr.org/en/professionalinterest/pages/CAT.aspx>.

<sup>20</sup> Convention on the Rights of the Child, Article 37, <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

<sup>21</sup> International Covenant on Civil and Political Rights, Article 9 and 10, <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

<sup>22</sup> International Covenant on Economic, Social and Cultural Rights, Article 11 and 12, <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>.

<sup>23</sup> UNHCR Press release 2017, 'UNHCR chief Filippo Grandi calls on Australia to end harmful practice of offshore processing'. Last accessed 28/08/2018/ <http://www.unhcr.org/en-au/news/press/2017/7/597217484/unhcr-chief-filippo-grandi-calls-australia-end-harmful-practice-offshore.html>

<sup>24</sup> United Nations Economic and Social Council, Committee on Economic Social and Cultural Rights, 11 July 2017, *Concluding observations on the fifth periodic report of Australia*, pp. 4. <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmIBEDzFEovLcUw9RFyUJ9z%2bWiZSaFYKnZJM8n7iN4SZy%2fi2TYG0x1sMHnePqnr1j%2bRxFralsW9I9d3gJzsDnyoeuGPbj2ogJjU5gBhgQpPGvSemqrtpvF6>

<sup>25</sup> United Nations High Commissioner for Refugees, Submission No 43 to the Senate Legal and Constitutional Affairs References Committee, Parliament of Australia, Inquiry into serious allegations of abuse, self-harm and neglect of asylum seekers in relation to the Nauru Regional Processing Centre, and any like allegations in relation to the Manus Regional Processing Centre, 12 November 2016, 10 [29].

violated the rights of migrants and asylum seekers to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1, 3, and 16 of the CAT.<sup>26</sup>

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<sup>26</sup> Human Rights Council, 6 March 2015, *Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, Addendum, Observations on communication transmitted to Governments and replies received*, pp. 9. <https://static.quim.co.uk/ni/1425873116713/Mendez-report.pdf>