



Human Rights Watch Submission on Nauru to the United Nations Committee on the Elimination of Discrimination against Women

We write in advance of your upcoming pre-sessional review of the Nauru government's compliance with the Convention on the Elimination of All Forms of Discrimination against Women (the "Convention").¹

Human Rights Watch has documented numerous women's rights violations in Nauru. This submission relates to articles 1, 2, 3, 10, 11, 12 and 13 of the Convention. It proposes issues and questions that Committee members may wish to raise with the Nauruan government as the Committee reviews Nauru's compliance with its obligations under the Convention.

This submission draws primarily on Human Rights Watch and Amnesty International's joint research on Nauru. Two researchers, one from each organization, visited Nauru for 12 days in July 2016, conducting in-depth interviews with 84 refugees and asylum seekers, including 29 women and 5 girls, as well as service providers. More information can be found in the joint report by Human Rights Watch and Amnesty International: [Appalling Abuse, Neglect of Refugees on Nauru: Investigation on Remote Pacific Island Finds Deliberate Abuse Hidden Behind Wall of Secrecy.](#)²

Background

Since September 2012, Australia has forcibly transferred families with children, unaccompanied children, and single men and women to Nauru under Memoranda of Understanding (MOUs) and as part of the Australian government's stated policy of deterring boat arrivals. Under the MOUs, Nauru agreed to host asylum seekers transferred to the island by Australia in detention facilities known as "Regional Processing Centres" (RPC).³ These facilities are run by a private company hired by the Australian government, and the Australian government has effective control of the

¹ Convention on the Elimination of All Forms of Discrimination against Women, adopted December 18, 1979, 1249 U.N.T.S. 13 (entered into force September 3, 1981). Nauru acceded to the Convention on June 23, 2011.

² Unless otherwise noted, this submission draws on the joint Human Rights Watch/Amnesty International report and the individual interviews that form the basis of the report. See Human Rights Watch and Amnesty International, "Appalling Abuse, Neglect of Refugees on Nauru: Investigation on Remote Pacific Island Finds Deliberate Abuse Hidden Behind Wall of Secrecy," joint news release, August 3, 2016, <https://www.hrw.org/news/2016/08/02/australia-appalling-abuse-neglect-refugees-nauru>.

³ Memorandum of Understanding Between the Republic of Nauru and the Commonwealth of Australia, relating to the Transfer to and Assessment of Persons in Nauru and Related Issues, signed August 3, 2013, cl. 10.

facility and is responsible for ensuring the health and welfare of the asylum seekers detained there.

Those transferred to Nauru initially spent a year or more housed in cramped vinyl tents in the RPC, with temperatures indoors regularly reaching 45 to 50 degrees Celsius (113 to 122 degrees Fahrenheit), and torrential rains and flooding.

Refugees and asylum seekers described conditions in these detention camps as “prison-like,” with regular searches of their tents by the guards, confiscation of “prohibited” items – including food and sewing needles – two-minute showers, and filthy toilets.

Refugees and asylum seekers on Nauru routinely face neglect by health workers and other service providers who have been hired by the Australian government, as well as frequent unpunished assaults by local Nauruans. They also endure unnecessary delays and at times denial of medical care, even for life-threatening conditions. Many have dire mental health problems and suffer overwhelming despair – self-harm and suicide attempts are frequent. All refugees and asylum seekers face prolonged uncertainty about their future.

Those the Australian and Nauru governments recognize as refugees are generally provided accommodation in open camps or other housing throughout the island. Families are generally assigned prefabricated units or converted containers. About one-third of the 1,200 refugees and asylum seekers on Nauru remain in the tents.

Since October 2015, Nauru has allowed asylum seekers greater freedom of movement around the island, but those who remain in the tents may not bring smartphones into the center, are monitored by guards, and face other restrictions on their liberty.

As noted by the Committee in its General Recommendation No. 32, “Articles 3 and 10 to 13 of the Convention entail that women seeking asylum and women refugees be granted without discrimination, the right to accommodation, education, health care and other support, including food, clothing and necessary social services, appropriate to their particular needs as women.”⁴

Nauru and Australia are jointly responsible under international law for the human rights violations against refugee and asylum seekers living in Nauru.⁵ Although Australia’s offshore operations on

⁴ Committee on the Elimination of Discrimination against Women, General Recommendation No. 32 on the Gender-Related Dimensions of Refugee Status, Asylum, Nationality and Statelessness of Women, UN Doc. CEDAW/C/GC/32 (November 14, 2014), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N14/627/90/PDF/N1462790.pdf?OpenElement> (accessed January 17, 2016), para. 33.

⁵ United Nations High Commissioner for Refugees (UNHCR), Advisory Opinion on the Extraterritorial Application of Non-Refoulement Obligations under the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, January 26, 2007, <http://www.refworld.org/docid/45f17a1a4.html> (accessed September 8, 2016), para. 35.

Nauru are entirely financed and almost entirely controlled by Australia, Nauru is jointly liable for the violations that occur on its territory.⁶

Harassment and Violence, Including Sexual Assault

Articles 1, 2, 11

Every refugee and asylum seeker interviewed reported intimidation, harassment, or violence directed at them or family members by Nauruans acting alone or in groups. They said the assailants cursed and spat on them, threw bottles and stones, swerved vehicles in their direction as they walked or rode on motorbikes, or broke their windows or destroyed other property.

As a result, refugees and asylum seekers said they were afraid to leave their accommodations, particularly at night. Women said they almost never left the camps and when they did, they travelled with male companions.

Six women described sexual assault or harassment, including groping, touching, explicit threats, demands for sex, and attempted rape. One woman said that on two occasions Nauruan men tried to drive her to the jungle when she was catching a ride with them, clearly intending to rape her. She also said that at one point she got a job at a shop on the island but had to quit after the first day because other employees kept touching her.

One woman interviewed said: “We are always scared, all the time. I am always checking the door to see if it is locked. We can’t go out alone. A lot of times, some Nauruans get drunk and come near the entrance by the road and shout at us.”

Refugees and asylum seekers said that Nauruan police disregard their complaints and sometimes discourage them from even filing reports. Police have dismissed some complaints as “made for media exposure only.” Several refugees provided Human Rights Watch and Amnesty International with copies of the reports they filed with local police following attacks, saying that police had not done anything to investigate or apprehend the attackers, even if the victims could identify them. Service providers, who said they often have to accompany refugees to file police reports, confirmed these statements.

⁶ As UNHCR observed, “the physical transfer of asylum-seekers from Australia to Nauru, as an arrangement agreed by two 1951 Refugee Convention States, does not extinguish the legal responsibility of the transferring State (Australia) for the protection of the asylum-seekers affected by the arrangements. In short, both Australia and Nauru have shared and joint responsibility to ensure that the treatment of all transferred asylum-seekers is fully compatible with their respective obligations under the 1951 Convention and other applicable international instruments.” UNHCR, UNHCR Monitoring Visit to the Republic of Nauru, 7 to 9 October 2013, <http://unhcr.org.au/unhcr/images/2013-11-26%20Report%20of%20UNHCR%20Visit%20to%20Nauru%20of%207-9%20October%202013.pdf> (accessed January 18, 2017), para. 22.

As the Committee notes in its General Recommendation No. 32, harm perpetrated against women and girls is often by non-state actors, and in such cases, article 2(e) of the convention “requires that States parties assume their due diligence obligation and ensure that women are effectively protected from harm that may be inflicted by non-State actors.”⁷

Questions and recommendations

Human Rights Watch encourages the Committee to ask the government of Nauru:

- What steps have the Nauruan police force taken to investigate the allegations of sexual assault of refugee and asylum-seeking women and girls?
- What steps have the Nauruan police force taken to investigate allegations of other forms of violence and harassment against refugee and asylum-seeking women and girls?
- What steps have the Nauruan police taken to do outreach to refugees and asylum seekers, including women and girls, to build their confidence in the police and encourage them to seek police assistance when they are victims of crime?

Human Rights Watch encourages the Committee to make the following recommendations to the government of Nauru:

- Investigate allegations of violence against women and girls and, as appropriate, prosecute individuals responsible for acts of violence and harassment, including sexual assault.
- Investigate allegations that police dismissed and disregarded complaints of assaults, including sexual assault, filed by refugee and asylum-seeking women and girls of assaults.
- Ensure that the police force is adequately trained and funded to respond to the reports of physical and sexual abuse.

Lack of Appropriate Medical Care

Article 12

The quality of medical care for refugees and asylum seekers on Nauru is poor. Specialized medical equipment and staff are not available on Nauru, and Nauruans who require more than basic medical care are sent to Australia, Fiji, or Taiwan.⁸ Refugee and asylum seekers reported that the hospital on Nauru lacks even basic supplies, such as bandages and sterile gloves.

Some of those interviewed said that they had developed serious medical problems in Nauru but that they had received virtually no specialized medical attention. They reported heart and kidney

⁷ Committee on the Elimination of Discrimination against Women, General Recommendation No. 32, para. 27.

⁸ See Committee on the Rights of the Child, Consideration of the Republic of Nauru, September 14, 2016, <http://webtv.un.org/search/consideration-of-the-republic-of-nauru-2134th-meeting-73rd-session-of-committee-on-rights-of-the-child/5124933629001?term=nauru> (accessed January 18, 2017).

diseases; diabetes accompanied by weight loss and rapidly deteriorating eyesight; and back problems leading to reduced mobility, among other conditions.

Parents were particularly critical of services available to women during pregnancy and childbirth and said that newborns suffered from persistent infections and other medical conditions.

Refugees and asylum seekers reported multiple situations in which they tried calling an ambulance when their friends or family members needed urgent help, but the hospital refused to send one.

Because refugee and asylum seekers cannot leave the island without authorization, they are completely dependent on the Australian authorities and service providers to arrange for them to be transferred to medical facilities outside Nauru. Interviewees described long delays while suffering with serious conditions, without any information, before eventually being transferred to hospitals in Papua New Guinea or Australia for tests or surgery.

Nauru is not meeting its obligations to provide necessary access to health care for refugees and asylum seekers, and in particular to ensure appropriate pre- and post-natal health care for pregnant women and girls.⁹

Questions and recommendations

Human Rights Watch encourages the Committee to ask the government of Nauru:

- What measures has the government of Nauru taken to increase the availability and improve the quality of necessary medical assistance and health care for refugees and asylum seekers?
- What measures has the government of Nauru taken to ensure appropriate pre- and post-natal health care for pregnant women and girls, and their babies?
- What role does the government of Nauru play in decisions to transfer refugees and asylum seekers overseas for medical treatment?
- What laws and regulations govern the maintenance and disclosure of medical records of refugees and asylum seekers on Nauru?

Human Rights Watch encourages the Committee to make the following recommendations to the government of Nauru:

- Seek to ensure that all refugees and asylum seekers have access to basic preventive, curative, and rehabilitative health services and health education as well as appropriate mental health care.

⁹ Convention on the Elimination of All Forms of Discrimination against Women, art. 12.

- Ensure that pregnant women, and their babies, receive access to adequate pre- and post-natal care.
- Ensure that the Republic of Nauru Hospital is stocked with sufficient essential medicines to meet the needs of all patients.
- Where appropriate care is not available in Nauru, asylum seekers and refugees should receive timely medical attention in other countries in the region, including Australia.

Attempted Suicide, Other Act of Self-harm, and Mental Well-being

Article 12

The Australian Human Rights Commission, UN High Commissioner for Refugees (UNHCR), and other independent agencies have observed that prolonged detention in conditions that violate the prohibition on ill-treatment exacerbated the trauma many had suffered from persecution in their home countries and the abuses and other hazards they faced on their journey to Australia.¹⁰ UNHCR has observed, in particular, that the mental health of transferred asylum seekers and refugees “has declined significantly over time”¹¹ and that “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 individual’s resilience and rendered them vulnerable to alarming levels of mental illness.”¹²

Nearly every asylum seeker and refugee interviewed reported mental health issues. High levels of anxiety, trouble sleeping, mood swings, and feelings of listlessness and despondency were most commonly mentioned, that they said began when they were transferred to Nauru. In many cases, the consequences appeared to be severe; they repeatedly self-harmed, cutting their hands or banging their heads against the wall, did not speak to anybody for months, did not recognize their relatives, and stayed in bed for weeks, refusing to go outside or take showers. One woman told Human Rights Watch that during her time on Nauru she had begun to wash her hands compulsively, hundreds of times a day.

Refugees and asylum seekers suffering psychological trauma and severe mental health conditions do not receive adequate support or treatment. Only two types of mental health services are available. International Health and Medical Services (IHMS), the main health service provider for

¹⁰ See, for example, Australian Human Rights Commission, “New Report: Experts Reveal Alarming Impact of Detention on Children,” February 4, 2016, <https://www.humanrights.gov.au/news/stories/new-report-experts-reveal-alarming-impact-detention-children> (accessed September 9, 2016); “UNHCR Calls for Immediate Transfer of Refugees Out of Manus Island, Nauru to ‘Humane Conditions,’” *ABC News*, May 5, 2016, <http://www.abc.net.au/news/2016-05-05/unhcr-presses-for-transfer-of-refugees-out-of-detention-centres/7385748> (accessed September 9, 2016).

¹¹ UNHCR, Submission by the Office of the United Nations High Commissioner for Refugees on the Inquiry into the Serious Allegations of Abuse, Self-Harm, and Neglect of Asylum-Seekers in Relation to the Nauru Regional Processing Centre, and Any Like Allegations in Relation to the Manus Regional Processing Centre, November 12, 2016, <http://www.unhcr.org/58362da34.pdf> (accessed January 19, 2017), para. 26.

¹² *Ibid.*, para. 29.

refugees and asylum seekers, appears to rely largely on use of strong sedative and anti-psychotic medication to address mental health issues. Refugees and asylum seekers said that these medications have severe side effects but provide little relief.

Questions and recommendations

Human Rights Watch encourages the Committee to ask the government of Nauru:

- What mental health services are available to Nauruans?
- What measures are in place to ensure and protect the mental health of asylum seekers and refugees in general and asylum seeker and refugee women and girls in particular?
- What is the government doing to reduce the frequency of self-harm and suicide rates of asylum seeker and refugees?

Human Rights Watch encourages the Committee to make the following recommendation to the government of Nauru:

- Ensure, if necessary through international assistance and cooperation, that all refugees and asylum seekers, in particular women and girls, receive appropriate mental health services.

Access to Education

Article 10

Save the Children Australia estimates that 85 percent of asylum seeker and refugee children on Nauru are not enrolled in school, in part because of the prevalence of bullying and harassment and that refugee children, particularly girls, are subjected to physical violence by Nauruan students.¹³

Children who attend local schools described frequent bullying and harassment from Nauruan students, who tell them to go back to their home countries. Many asylum seeker and refugee children have reported being hit or having things thrown at them by Nauruan students, and are ignored when they complain of the bullying and harassment. Refugee and asylum seeker children report that they are often referred to as “refugee,” rather than by their names, by teachers as well as Nauruan students. One 15-year-old girl informed us that she stopped going to school because Nauruan children always tried to pull off her headscarf and constantly taunted her.

¹³ See Nicole Hasham, “‘You Are Terrorists, You Make Bombs’: Racist Taunts Help Keep Nauru Refugee Kids Out of School,” *Sydney Morning Herald*, July 29, 2016, <http://www.smh.com.au/federal-politics/political-news/you-are-terrorists-you-make-bombs-racist-taunts-help-keep-nauru-refugee-kids-out-of-school-20160729-gqqlcp.html> (accessed January 19, 2017).

Questions and recommendations

Human Rights Watch encourages the Committee to ask the government of Nauru:

- What steps has the government of Nauru taken to prevent and address instances of bullying and harassment in schools, including of refugee and asylum children?
- What is the school attendance rate of children of compulsory school age? What is the school attendance rate of girls of compulsory school age? What is the school attendance rate of refugee and asylum seeker children of compulsory school age, disaggregated by gender?
- What measures has the government of Nauru undertaken to increase school attendance among students of compulsory school age?

Human Rights Watch encourages the Committee to make the following recommendations to the government of Nauru:

- Put in place effective measures, including teacher training, to reduce bullying and harassment of asylum-seeker and refugee children, and practices such as calling children terms such as “refugee” instead of by their names.
- Ensure that all children of compulsory school age are attending school.