



August 16, 2019
Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600

Submission by Human Rights Watch to the Australian Senate Legal and Constitutional Affairs Committee on the Inquiry into the Migration Amendment (Repairing Medical Transfers) Bill 2019

Summary

Human Rights Watch welcomes the invitation to make a submission regarding the Inquiry into the *Migration Amendment (Repairing Medical Transfers) Bill 2019*.

Human Rights Watch recommends the Committee retain the current medical transfer provision contained in *Migration Amendment (Urgent Medical Treatment) Act 2019*.

Australia's offshore processing policy has had severe impacts on the health of asylum seekers and refugees on Manus Island and Nauru. The *Migration Amendment (Urgent Medical Treatment) Act 2019* was a necessary step to facilitate the transfer of refugees and asylum seekers from Papua New Guinea and Nauru to Australia for medical treatment. Under the law, if asylum seekers or refugees on Manus Island or Nauru are assessed by two or more treating doctors as requiring medical treatment, then they and their families should be transferred to Australia.

The bill introduced by Home Affairs Minister Peter Dutton would repeal the medical transfer provisions and amend the Act to extend existing powers to allow for the removal of persons medically transferred to Australia after care has been provided, or to return them to a regional processing country once the temporary purpose for which they were brought to Australia is complete.

Repealing the medical transfer provisions would have a devastating impact on the physical and mental health of at least 700 asylum seekers and refugees, who lack access to adequate medical facilities and equipment in Papua New Guinea and Nauru. Furthermore, returning

refugees and asylum seekers to Manus Island and Nauru following medical or surgical procedures does not account for the psychological impact such returns would have on the health and wellbeing of these people.

I. Health of Asylum Seekers and Refugees

Offshore detention has taken a significant toll on the physical and mental health of asylum seekers and refugees. Medical facilities in Papua New Guinea and Nauru are woefully inadequate and have proven unable to cope with the complex medical needs of asylum seekers and refugees, particularly their mental health needs.

In 2016, Human Rights Watch visited and interviewed refugees and asylum seekers on Nauru. Those interviewed said they had developed severe anxiety, inability to sleep, mood swings, prolonged depression, and short-term memory loss on the island. Adults and children spoke openly of having wanted to end their lives and, in many cases, repeatedly self-harmed, did not speak to anyone for months, did not recognize relatives, and stayed in bed for weeks.¹

Specialized medical equipment and staff are not available on Nauru and even the hospital lacks basic supplies, such as bandages or sterile gloves. Refugees and asylum seekers described long delays to see specialists for serious conditions or for transfers to medical facilities outside Nauru.² Refugees and asylum seekers must wait for specific specialists, such as psychiatrists and ophthalmologists, to be flown to Nauru before they have a chance of being seen. These waits can be many months in which time their health can deteriorate further.

Both International Health and Medical Services (IHMS), the private contractor hired by the Australian government which is the main health service provider, and Nauru's hospital often refuse to take the complaints of asylum seekers and refugees seriously. They often prescribe nothing but painkillers, even for serious medical problems. IHMS also appears to make heavy use of strong sedative and anti-psychotic medication to address mental health issues. According to a service provider who worked on Nauru in 2019, many refugees and asylum seekers received inadequate medical treatment over the years, and subsequently, health concerns have become more serious and now require urgent attention. Prior to this legislation, the Australian government has delayed or denied medical transfers of refugees and asylum seekers, sometimes for months or years, against the recommendations of doctors. Because they cannot leave the island without authorization, refugees and asylum seekers are completely dependent on the Australian authorities and service providers to arrange for them to be transferred to medical facilities outside Nauru. This results in long delays while suffering with serious conditions, without any information, before eventually being transferred to hospitals in Papua New Guinea, Taiwan or Australia for tests or surgery.

¹ "Australia: Appalling Abuse, Neglect of Refugees on Nauru," Human Rights Watch news release, August 2, 2016, <https://www.hrw.org/news/2016/08/02/australia-appalling-abuse-neglect-refugees-nauru>.

² Ibid.

In September 2017, a Human Rights Watch team that visited Papua New Guinea and interviewed 40 refugees and asylum seekers and found medical care provided to asylum seekers and refugees in Papua New Guinea to be inadequate. Refugees and asylum seekers do not receive adequate access to mental health services, which has had a devastating impact on their mental wellbeing. For instance, Australian authorities transferred a refugee with a mental health condition to a psychiatric facility in Port Moresby, where he said staff beat him and detained him for about three weeks in dirty and crowded conditions. The United Nations High Commissioner for Refugees (UNHCR) has concluded that the dire mental health crisis cannot be appropriately addressed in Papua New Guinea and that those with mental health conditions should be transferred back to Australia as a matter of urgency.³

II. Professional Recommendations

UNHCR has closely monitored the offshore processing situation since its inception in 2013 and has noted that the overwhelming majority of refugees and asylum seekers on Nauru and Papua New Guinea had no pre-existing psychiatric disorder prior to arrival. In 2016, UNHCR recorded rates of anxiety, depression, and post-traumatic stress disorder at over 80 percent in both locations.⁴ According to UNHCR, “the wellbeing of refugees has been noted by various medical experts to have further deteriorated since that time.”⁵

The coroner’s report into the death of Iranian Hamid Khazaei also recommended that doctors working offshore should approve medical transfers to Australia, rather than leaving the decision to government officials.⁶ The 2018 report found his death was “preventable” and resulted from a “series of clinical errors, compounded by failures in communication that led to poor handovers and significant delays in his retrieval from Manus Island.”⁷

³ “Australia/PNG: Refugees Face Unchecked Violence.” Human Rights Watch news release, October 25, 2017, <https://www.hrw.org/news/2017/10/25/australia/png-refugees-face-unchecked-violence>.

⁴ United Nations High Commissioner for Refugees, “Submission to the Senate Legal and Constitutional Affairs Committee: 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 2016,” <https://www.unhcr.org/en-au/publications/legal/58362da34/submission-to-the-senate-legal-and-constitutional-affairs-committee-serious.html> (Accessed August 7, 2019).

⁵ United Nations High Commissioner for Refugees, “UNHCR Appeals for Urgent Medical Intervention by Australia,” November 29, 2018, <https://www.unhcr.org/en-au/news/press/2018/11/5bff8f237/unhcr-appeals-for-urgent-medical-intervention-by-australia.html> (Accessed August 15, 2019).

⁶ Queensland Courts, “Inquest into the death of Hamid Khazaei,” (File No. 2014/3292), 2018, https://www.courts.qld.gov.au/__data/assets/pdf_file/0005/577607/cif-khazaei-h-20180730.pdf (Accessed August 15, 2019), p.117.

⁷ *Ibid* p.3.