



# HEALTH CARE CUTS

AUSTRALIA'S REDUCED HEALTH CARE SUPPORT FOR REFUGEES AND ASYLUM SEEKERS IN PAPUA NEW GUINEA

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**Cover photo:** Sign to Lorengau Hospital remains on the ground after storm damage, November 2018. © Amnesty International.

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# INTRODUCTION

This paper provides an update on the health situation for refugees and asylum seekers sent to Papua New Guinea (PNG) by the Australian government. Since 2013, Australia has been sending asylum seekers arriving in its territory by boat to the remote Pacific island nations of Nauru and PNG. Around 700 refugees and asylum seekers remain in PNG, mostly on Manus Island, after nearly five years in limbo. They lack safety and security in the country, which has high levels of violence, particularly against refugees and other vulnerable persons. Attempts to settle refugees in PNG have failed. While dozens of refugees have recently been settled in the United States under a bilateral agreement with the Australian government, hundreds of people are likely to remain in the country unless Australia ends offshore processing and accepts these refugees and asylum seekers into Australia, or finds safe third countries for them. It is within this context that the Australian government has begun winding back service provision, including critical health care, to refugees in its care in PNG.

Australia has an obligation to realise the right to the highest attainable standard of health for the refugees and asylum seekers it has sent to PNG. In spite of this, health services, including critical mental health support, have been reduced over the last six months for a refugee population that has amongst the highest recorded rate of mental illness in the world.<sup>1</sup> Two suspected suicides in August and October 2017 underscore the need for increased, and not reduced, mental health care.<sup>2</sup>

On 30 April 2018, the Australian government ended its contract with health service provider, International Health and

Medical Services (IHMS). The Australian government has now engaged Pacific International Hospital (PIH) to support the general healthcare needs for refugees and asylum seekers, while also relying on public hospitals for after hours and emergency care. By shifting health care responsibilities to local contractors and the public health system, the Australian government has limited the availability, accessibility and quality of health care for refugees and asylum seekers.

Australia has gone to extraordinary lengths and enormous cost to implement its harmful and illegal offshore detention policy, which is severely limiting refugees and asylum seekers' access to health care. Refugees and asylum seekers live in accommodation, with security, meals, medication, health care all currently provided by the Australian government or its contractors. Refugees and asylum seekers are not free to reside or travel elsewhere in the country (or leave) and cannot seek employment without permission from PNG Immigration officials, which has been difficult for a number of refugees to obtain.<sup>3</sup> They are entirely dependent on the Australian government to provide and pay for health care. Unlike local residents and foreigners, refugees and asylum seekers cannot travel freely within the country or seek medical care through their own means. They are held in PNG as a means of deterrence and punishment. As a result, and until such time as Australia ends offshore processing, Australia is responsible for ensuring that all refugees and asylum seekers have access to necessary and quality health care, including by transfer to Australia.

Australia could easily address these concerns by providing affordable and quality health care within its territory. This would mean dismantling offshore 'processing' of asylum seekers and bringing people to Australia, something the government refuses to do. In the interim, Australia must ensure that health care and facilities are maintained, comparable to Australian standards, and not reduced for refugees and asylum seekers in its care. Failure to do so will further endanger the mental and physical health of a population Australia has already spent five years neglecting.

<sup>1</sup> UN High Commissioner for Refugees (UNHCR), Submission by Office of the High Commissioner for Refugees on the Inquiry into the Serious Allegations of Abuse, Self-Harm and Neglect of Asylum-seekers to the Nauru Regional Processing Centre, and any like Allegations in Relation to the Manus Regional Processing Centre Referred to the Senate Legal and Constitutional Affairs Committee, 12 November 2016, available at: <http://www.refworld.org/docid/591597934.html>

<sup>2</sup> Ben Doherty, *Sri Lankan Tamil Refugee Found Dead on Manus Island*, The Guardian, 2 October 2017, available at <https://www.theguardian.com/australia-news/2017/oct/02/sri-lankan-tamil-refugee-found-dead-on-manus-island>

<sup>3</sup> See Amnesty International, *Punishment not protection: Australia's treatment of refugees and asylum seekers in Papua New Guinea*, 1 February 2018, available at <https://www.amnesty.org/en/documents/ASA34/7781/2018/en/>

# BACKGROUND

## “Papua New Guinea continues to face enormous challenges in providing access to quality health services and education opportunities for all Papua New Guineans.”

Australian Government, Aid Investment Plan: Papua New Guinea 2015-16 to 2017-18, p6.

In 2013, refugees and asylum seekers arriving by boat in Australia were sent to PNG and initially detained at the ‘Refugee Processing Centre’ (RPC) on Lombrum Naval Base on Manus Island (a location 20 minutes from the main town in the province, Lorengau). From 2014 until the camp’s closure in 2017, the RPC had a large and purpose-built medical facility, including on site pharmacy, which serviced the medical needs of refugees and asylum seekers. Medical transfers, while rare, could be facilitated to Port Moresby or Australia by IHMS with the consent of Australian government officials.

As part of a deliberate plan aimed at winding back services provided to refugees and asylum seekers, the Australian government closed the RPC and moved refugees to three other transit centres on Manus Island. Service provider contracts with Australian or International companies expired on 31 October 2017, and PNG based companies were contracted to provide food, security and other services to refugees on Manus Island. These companies are directly or indirectly engaged by the Australian government, which remains responsible for the refugees it sends to PNG.

By the end of 2017, refugees and asylum seekers on Manus Island were accommodated at one of three transit centres near Lorengau (a town of roughly 7,000 people) – Hillside Haus, West Lorengau Haus or East Lorengau Transit Centre (ELTC). Of these three facilities, only the ELTC has a medical clinic, which operates five and a half days a week.

Throughout 2017, more than 100 refugees and asylum seekers with more serious medical conditions were flown to Port Moresby for medical treatment in the nation’s capital. Some may have since been returned to Manus Island.

Australia donates considerable foreign aid to the health sector in PNG and describes available medical services as either poor or basic. While access to adequate healthcare has been a five-year problem even with the oversight of both IHMS and Australian government officials, it is likely that this situation will deteriorate further if the Australian government does not safeguard the right to adequate medical care in its service contracts or other arrangements.

In rural locations such as Manus Province, the hospital is overcrowded and understaffed.

Public health care is marginally better in urban centres such as Port Moresby, where some refugees and asylum seekers are currently undergoing medical treatment. Australia has sent refugees to PNG with full knowledge of the limitations on access to adequate health care there, following brief health checks on their arrival to Australia.<sup>4</sup>

World Vision Australia,<sup>5</sup> UNHCR,<sup>6</sup> the Australian Council for International Development,<sup>7</sup> and Human Rights Watch<sup>8</sup> have all raised concerns about the health situation for refugees and asylum seekers on Manus Island, especially since October 2017 when access to services were reduced.

### METHODOLOGY

Amnesty International researchers visited Manus Island and Port Moresby in PNG from 26 October to 7 November 2017 and spoke with over 55 refugees and asylum seekers, all of whom are men. Amnesty International spoke with 30 men who were in Port Moresby for ongoing medical care. Meetings were also held with Australian government officials in Port Moresby and Canberra and IHMS staff in Sydney. This document expands on the Amnesty International report released on 1 February 2018, *Punishment not protection: Australia’s treatment of refugees and asylum seekers in Papua New Guinea*.<sup>9</sup>

Amnesty International also shared a draft of this paper with IHMS and their feedback and comments have been taken on board in this report to the extent possible. In relation to some cases, IHMS requested for further information on individual’s names, dates of birth and consent forms to be able to respond in more detail. Where refugees and asylum seekers provided details to Amnesty International on an anonymous basis, we have respected these wishes and have not been able to share these details with IHMS. Where contradictory information on a person’s medical situation has been provided by IHMS, we have noted this below.

<sup>4</sup> Amnesty International, *This is Breaking People: Human rights violations at Australia’s asylum seeker processing centre on Manus Island, Papua New Guinea*, 2013, at p 60, available at: [https://static.amnesty.org.au/wp-content/uploads/2016/09/Amnesty\\_International\\_Manus\\_Island\\_report-1.pdf](https://static.amnesty.org.au/wp-content/uploads/2016/09/Amnesty_International_Manus_Island_report-1.pdf)

<sup>5</sup> Daniel McCulloch, *Mental Health Crisis Risk for Manus Men*, Australian Associated Press, 28 November 2017, available at: <http://www.news.com.au/national/breaking-news/mental-health-crisis-risk-for-manus-men/news->

<sup>6</sup> SBS, *Urgent action needed on Manus: UNHCR*, AAP, 25 November 2017, available at: <http://www.sbs.com.au/news/article/2017/11/25/urgent-action-needed-manus-unhcr>

<sup>7</sup> Daniel McCulloch, *Mental Health Crisis Risk for Manus Men*, Australian Associated Press, 28 November 2017, available at: <http://www.news.com.au/national/breaking-news/mental-health-crisis-risk-for-manus-men/news-story/d9bef7c74a47b68d48782a4110e3ddf1>

<sup>8</sup> Elaine Pearson, *Australia/PNG: Refugees face unchecked violence*, Human Rights Watch, 25 October 2017, available at: <https://www.hrw.org/news/2017/10/25/australia/png-refugees-face-unchecked-violence>

<sup>9</sup> Available at <https://www.amnesty.org/en/documents/ASA34/7781/2018/en/>

# ACCESS TO MEDICAL CARE



↑ A bathroom is used as a storage space at the Lorengau General Hospital, taken in October 2017. ©Amnesty International

## MANUS ISLAND

Over time, the level of health care and how this has been provided to refugees on Manus has changed. Significantly, changes over the past six months have seen a reduction in access to health care and shifting responsibility to local PNG contractors, or the public health system, to provide health care. Australia's responsibility to refugees and asylum seekers has not changed over this period.

Refugees and asylum seekers rely on transport provided by Paladin Security (a private security contractor to the Australian government) or can find their own means to get to the medical clinic at the ELTC or the Lorengau Hospital to obtain health care, a distance of two to five kilometres. Real concerns for their own safety, or local disruptions such as road blocks by

locals protesting about the presence of the centre may further impede access to medical care under this system.<sup>10</sup>

IHMS said they have worked with City Pharmacy on Manus Island (the only pharmacy in town) to provide medications to refugees. Refugees can collect medications with a prescription at no cost (this will be paid directly by the Australian government). Non-prescription medications must be paid for by refugees themselves.<sup>11</sup>

The torture and trauma counselling service that was in place prior to 8 October 2017 has not been replaced and medical experts have expressed concern that necessary psycho-social support is no longer being provided.<sup>12</sup>

In a November 2017 visit, UNHCR medical specialists noted a range of challenges with the existing health care arrangements on Manus, including:

- The Lorengau Hospital was 33% over capacity at the time of the visit;
- 50% of medical specialist positions, and 43% of nursing positions remained unfilled;
- The imminent overburdening of the Lorengau Hospital (following an 8% spike in population in Lorengau due to the relocation of refugees);
- No expertise to deal with the specific health needs of the refugee population, particularly in relation to mental health (the hospital only having one mental health nurse);
- Lack of language translators for refugees, most of whom do not speak the local language of Tok Pisin; and
- An ambulance is not available on a regular or consistent basis.<sup>13</sup>

While one IHMS staff told Amnesty International<sup>14</sup> that further engagement and training had taken place with both the Lorengau Hospital and its pharmacy to ensure they were better equipped to address the specific needs and health concerns of refugees and asylum seekers, fundamental challenges such as overcrowding and lack of specialists, remain.

<sup>10</sup> See: Amnesty International, *Punishment not protection: Australia's treatment of refugees and asylum seekers in Papua New Guinea*, 1 February 2018, available at <https://www.amnesty.org/en/documents/ASA34/7781/2018/en/> for more details on safety concerns of refugees.

<sup>11</sup> Interview with IHMS staff, Sydney, 3 April 2018.

<sup>12</sup> UNHCR, *Medical Expert Mission PNG: 10 to 16 November 2017*, available at <http://www.unhcr.org/en-au/5a3b0f317.pdf>

<sup>13</sup> UNHCR, *Medical Expert Mission PNG: 10 to 16 November 2017*, available at <http://www.unhcr.org/en-au/5a3b0f317.pdf>

<sup>14</sup> Interview with IHMS staff, Sydney, 3 April 2018.

## TIMETABLE: MEDICAL CARE FOR REFUGEES AND ASYLUM SEEKERS

2 Aug 2013	First refugees arrive on Manus Island.
11 – 16 Nov 2013	Amnesty International visits Manus Island, including the initial IHMS clinic at the centre and expressed concern that the medical facility within the camp is unable to cope with the growing demand for health and mental health services. <sup>15</sup>
2014 – Oct 2017	From 2014 until October 2017, refugees were serviced by a larger and well equipped IHMS clinic, including dispensary, at the RPC. Torture and trauma counselling services were provided to refugees by Overseas Services to Survivors of Torture and Trauma (OSSTT), who continue to provide such services to refugees and asylum seekers on Nauru. Refugees who were accommodated at the ELTC were serviced by a medical clinic operated by IHMS on one day a week. <sup>16</sup>
Oct 2017	In early October 2017, access to medical care changed dramatically for the hundreds of refugees and asylum seekers on Manus Island. They were given three week's supply of medication and torture and trauma counselling services ended. Refugees were told to move to newer facilities and access the refugee medical clinic at the ELTC or the local hospital.
31 Oct 2017 – 24 Nov 2017	Hundreds of refugees were abandoned on 31 October 2017 as Australian government officials and contractors withdrew from the RPC. As a result, they were not provided with food, water or medical care at the site for three weeks. Refugees were forcibly transferred to the newer centres between 23 and 24 November 2017 by PNG Immigration officials and police. <sup>17</sup> On 1 November 2017, Provincial Police Commander David Yapu told Amnesty International that the health clinic at the ELTC was not yet 'up to standard'. <sup>18</sup>
Dec 2017	The medical clinic at ELTC operates five and a half days a week, with after hours and critical care expected to be provided by the Lorengau Hospital, a public hospital on Manus Island. <sup>19</sup> There are no health clinics at Hillside Haus and West Lorengau Haus, the other two sites accommodating refugees on Manus Island.
30 Apr 2018	IHMS, who have been providing medical care to refugees on Manus since 2013, handed over medical care to a new local service provider, Pacific International Hospital (PIH), who is contracted by the Australian government. Details of the contractual arrangements with PIH were not publicly available at the time of publishing this document.

## PORT MORESBY

Refugees who were sent to Port Moresby with more serious medical conditions were accessing medical care through IHMS and the Pacific International Hospital (PIH). Since mid-December 2017, refugees have been able to fill their prescriptions in Port Moresby from City Pharmacy at Vision City or the pharmacy at PIH, with the costs invoiced to the Australian government. IHMS said this new system was designed to give refugees a sense of agency and 'empowerment'.<sup>20</sup>

A relatively high proportion of refugees and asylum seekers had been sent to Port Moresby for further medical care – around 10-15% of the total refugee population in October 2017 (around 110 people), highlighting the limitations in access to health care on Manus Island.

A UNHCR medical report noted how access to health care was limited, and the need for urgent action, in a December 2017 report:

**“A second category of high needs patients are those currently identified as in need of medical management beyond the capabilities of the Lorengau General Hospital and IHMS, and evacuated to the Granville Motel in Port Moresby. Currently 80 persons have been evacuated to the Granville Motel, and some have been there for more than six months. A subgroup of these patients with complex conditions is awaiting transfer to overseas hospitals and treatment services, since there are no appropriate services for these patients in Port Moresby. These include the need for lithotripsy, complex colo-rectal surgery, electrophysiological cardiac studies and treatment, nerve conduction studies and neurological evaluation and**

<sup>15</sup> Amnesty International, *This is Breaking People: Human rights violations at Australia's asylum seeker processing centre on Manus Island, Papua New Guinea*, 2013, available at: [https://static.amnesty.org.au/wp-content/uploads/2016/09/Amnesty\\_International\\_Manus\\_Island\\_report-1.pdf](https://static.amnesty.org.au/wp-content/uploads/2016/09/Amnesty_International_Manus_Island_report-1.pdf)

<sup>16</sup> Interview with refugees outside the ELTC on 29 October and 1 November 2017.

<sup>17</sup> Amnesty International, *Punishment not protection: Australia's treatment of refugees and asylum seekers in Papua New Guinea*, 1 February 2018, available at <https://www.amnesty.org/en/documents/ASA34/7781/2018/en/>

<sup>18</sup> Interview with David Yapu, Manus, 1 November 2017.

<sup>19</sup> Interview with IHMS staff, Sydney, 3 April 2018.

<sup>20</sup> Interview with IHMS staff, Sydney, 3 April 2018.

### HEALTH CARE CUTS

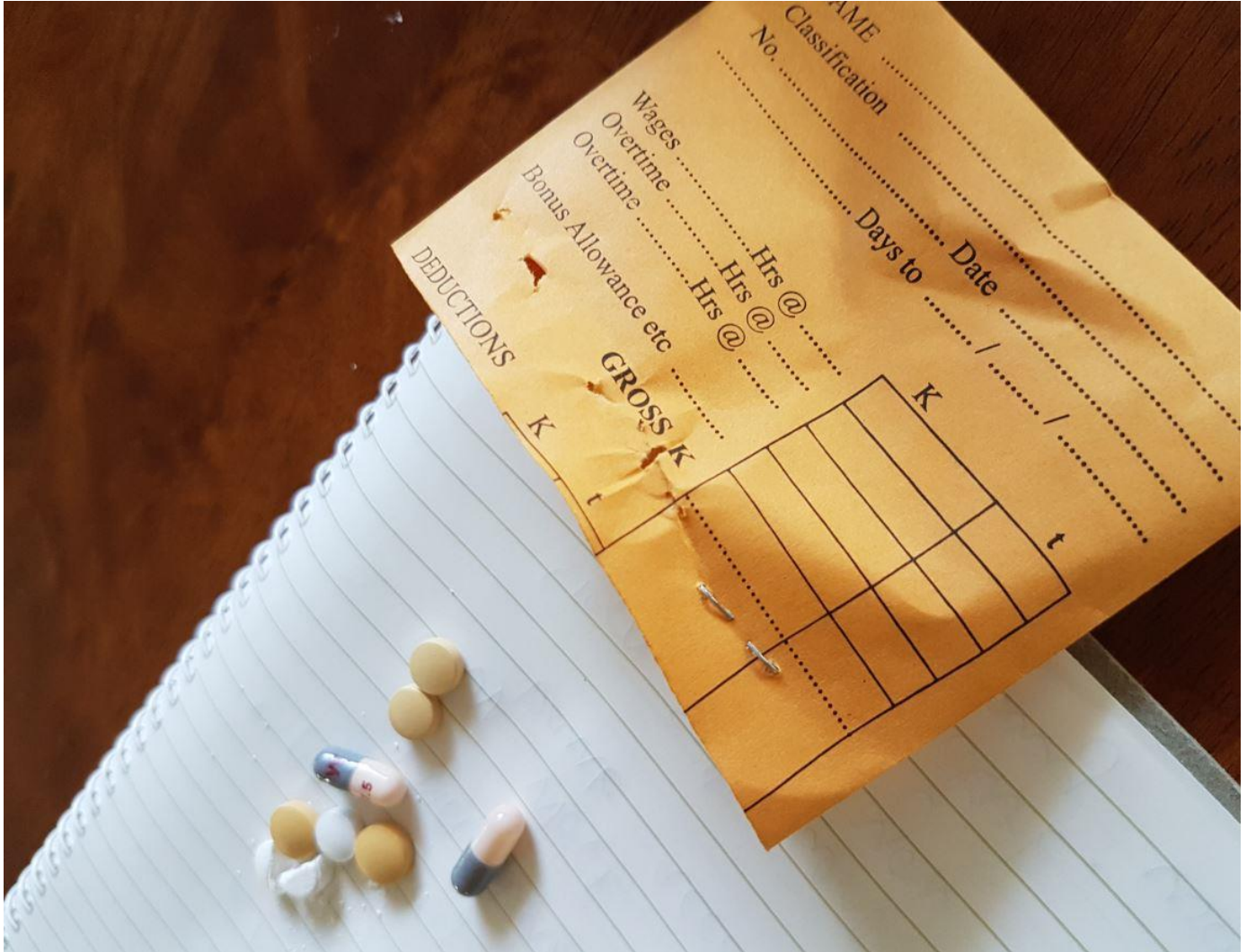
#### AUSTRALIA'S REDUCED HEALTH CARE FOR REFUGEES AND ASYLUM SEEKERS IN PAPUA NEW GUINEA

Amnesty International

**neuropsychiatric evaluation. It can be anticipated unless urgent action is taken to provide suitable treatment, that permanent dysfunction will occur for a number of these cases.”**

Amnesty International's own findings were consistent with those of UNHCR – that health care for refugees has largely been inadequate and declining because of limitations imposed

by the Australian government, and that unless some of the most urgent cases are transferred to Australia, they will not be able to receive necessary treatment with potentially life-threatening results. For those with non life-threatening conditions, the lengthy waiting periods are stressful and degrading.



↑ A refugee shows Amnesty International the medication he received from IHMS daily. The envelope was marked only with his boat ID number on the reverse side. Taken in Port Moresby on 2 November 2017 ©Amnesty International

# MEDICAL CONDITIONS AFFECTING REFUGEES

Many refugees and asylum seekers, who had been in Port Moresby for between two and 11 months,<sup>21</sup> were affected by various ailments. They described symptoms and illnesses including suspected cancerous lumps, kidney stones, gastric problems, typhoid, dengue fever, vision impairment and mental health problems. Some also had mobility challenges because of back pain or other physical injuries. One refugee spoke to us by telephone from his room, as severe back pain meant he had not left his room in two months.<sup>22</sup> Five refugees described deteriorating eye conditions affecting their eyesight.<sup>23</sup>

Three refugees told Amnesty International they were still receiving medical treatment for physical injuries sustained in February 2014 when local residents violently attacked refugees at the RPC, killing Reza Berati and injuring others, highlighting the severity of injuries sustained and the extent of medical needs.<sup>24</sup>

In one case, a refugee said he had kidney stones and stomach problems. A stent was inserted into his stomach during an operation and he was informed by doctors it would be removed after six weeks. Eight months later, the stent had not yet been removed and was pressing against his bladder causing bleeding. He said he was informed by doctors that there are currently no specialists in PNG who can remedy his condition.<sup>25</sup>

Emir (not his real name) said he broke his wrist four years ago. Despite complaining about the pain, he was not sent for an x-ray at the time he injured himself. He said he begged doctors to look at his wrist again when they sent him to Port Moresby for pain in his knee in early 2017. The doctors told him the bone in his wrist had broken but, because of the length of time without treatment, it had healed and he would need surgery to repair it properly. He had the surgery in Port Moresby in February 2017, however he continues to experience pain, takes painkillers and demonstrated restricted movement in his wrist even after the surgery.<sup>26</sup>

One refugee said he was awaiting a decision on medical transfer to Australia,<sup>27</sup> others were told their conditions cannot be treated in PNG due to lack of appropriate specialists.<sup>28</sup> Some were able to show Amnesty International letters from PIH to the effect that they required treatment, diagnostic equipment or tests, or specialists who are not available in the country. For example, a refugee showed Amnesty International

a letter stating that he had an Anterior Cruciate Ligament (ACL) tear in his knee, which is treated in outpatient day surgery in Australia, but PIH staff said it was not able to provide treatment.

The procedures for transferring patients who cannot be treated or diagnosed in PNG was unclear, with the Australian government having ultimate authority for deciding who is transferred. Many of those who said they cannot be treated or diagnosed in the country were not given information or a timeline on when a transfer might take place, or if it would happen at all.

Some of those people referred to above may have received further medical treatment since we spoke to them. However, these cases highlight the ongoing health needs for refugees and asylum seekers and the lack of options available for timely and adequate healthcare.

## PACIFIC INTERNATIONAL HOSPITAL

Amnesty International researchers visited the Pacific International Hospital ('PIH'), a private hospital in Port Moresby, where refugees have received medical treatment in November 2017. Hospital officials at PIH were generous with their time and gave Amnesty International researchers a detailed tour of the facility. While the facility is well equipped – it has 5 operating theatres, a CT scanner, two MRI machines and an x-ray machine – there are significant limitations for specialists available in the country and the hospital often relies on visiting medical specialists from overseas. The hospital confirmed that they have no oncologist or neurosurgeon and only a visiting psychiatrist. Refugees and medical professionals told Amnesty International that the health care at PIH was limited, largely due to lack of available specialists.

While PIH is better equipped than public health services in PNG, it remains limited by the availability of specialists and medical equipment.

PNG does not have the ability to provide the type of specialist medical care that refugees and asylum seekers require, especially in relation to mental health issues, within the country.

In addition, notices put up by Paladin Security on the instructions of the Australian government on 14 April 2018, said that refugees and asylum seekers in Port Moresby will be taken to the public hospital for after hours or emergency care. This suggests that PIH's provision of health care will be limited to general health care within standard business hours.

## RESPONSE BY THE AUTHORITIES

Australian Border Force officials gave Amnesty International an overview of medical facilities that was inconsistent with descriptions by UNHCR and others who had visited the new refugee centres on Manus Island – the East Lorengau Transit Centre, Hillside Haus and West Lorengau Haus – stating that

<sup>21</sup> Interview with 30 refugees in Port Moresby, 3 and 4 November 2017.

<sup>22</sup> Interview by phone, Port Moresby, 4 November 2017.

<sup>23</sup> Interviews in Port Moresby, 3 and 4 November 2017.

<sup>24</sup> See report: *This is Still Breaking People*, Amnesty International, 2014; interview with refugees in Port Moresby on 3 and 4 November.

<sup>25</sup> Interview with Zafer (not his real name), Port Moresby, 3 November 2017.

<sup>26</sup> Interview with Emir (not his real name), Port Moresby, 3 November 2017.

<sup>27</sup> Interview by phone in Port Moresby, 4 November 2017.

<sup>28</sup> Interview with refugees in Port Moresby, 3 and 4 November 2017.



health care is comparable to that provided in Australia.<sup>29</sup> However, they did acknowledge that the IHMS clinic would be smaller than it was previously, have less equipment, not include a dispensary and only operate for certain hours, after which refugees and asylum seekers are expected to visit public

hospitals. No explanation was given as to why the Australian government now considers reduced health care services appropriate for refugees who remain trapped in the country and under its effective control.<sup>30</sup>

## LENGTHY WAITING PERIODS FOR THOSE WHO CANNOT BE TREATED IN PNG

Samuel (not his real name), is an Iranian asylum seeker. He told Amnesty International researchers how he has a medical condition and a family history of early heart disease. He went to Port Moresby after experiencing a heart related symptoms in February 2017. Two doctors at the Pacific International Hospital recommended he be sent to Australia for further tests and treatment. He spent three nights in the Intensive Care Unit at the Pacific International Hospital in Port Moresby and in the ward. His treating doctors recommended tests which are not available in PNG, so prescribed him heart medication, which he continues to take, and discharged him.

On the evening of the 3 November 2017, Samuel collapsed at the RPC on Manus Island. As a result of the complete withdrawal of services at the centre on 31 October, other refugees spent four hours trying to obtain assistance from security contractors to get him to the Lorengau Hospital, a 20 kilometre drive away. Security staff eventually drove him to the hospital. He was discharged from the hospital a few hours later because they lacked the equipment to further diagnose and treat his condition.<sup>31</sup> Samuel told Amnesty International that he continues to experience heart-related symptoms including dizziness and heart palpitations, exacerbated by the stress over the past few months.

Samuel was sent to Port Moresby in December 2017. On Sunday 18 March 2018, Samuel was taken to Port Moresby General Hospital and then Pacific International Hospital after experiencing further heart-related symptoms. Doctors have said he continues to be at risk of a heart attack. Dr Paddy McListy, from Doctors for Refugees, has said that Samuel's case amounts to medical negligence on the part of the Australian government.<sup>32</sup>

Amnesty International raised this case with IHMS in a meeting on 3 April 2018 in Sydney. IHMS senior clinicians responded that in addition to consultation with the treating clinicians at Pacific International Hospital, Samuel's medical records were reviewed by a cardiologist in Australia. This cardiologist conducted a file review and did not see Samuel in person. He recommended that no further tests be undertaken at this time. IHMS disputes that Samuel had a heart attack and the severity of his present medical condition.

Samuel remains in a difficult situation where further recommended medical treatment or testing is not being carried out, presumably because this would necessitate a transfer to Australia, which requires Australian government approval. Amnesty International obtained medical records to support that Samuel had a 'myocardial infarction', also known as a heart attack, in February 2017. A subsequent diagnosis by a cardiologist in Australia said that Samuel suffered a 'coronary artery spasm', a different heart condition that still requires regular review and medication. Both diagnoses mean that Samuel remains at risk of a further heart attack.

<sup>29</sup> Meeting at Australian High Commission, Port Moresby, 6 November 2017.

<sup>30</sup> Interview with Australian High Commission staff, Port Moresby, 6 November 2017.

<sup>31</sup> Lisa Martin, *Refugee collapsed with heart pain on Manus*, AAP, 5 November 2017, available at <http://www.news.com.au/national/breaking-news/refugee-collapsed-with-heart-pain-on-manus/news-story/64f9a4bc21dd6a74fabd95886f72e7cc>

<sup>32</sup> Benjamin Robinson-Drawbridge, *Australia accused of medical negligence on Manus Island*, Radio New Zealand, 17 November 2017, available at <https://www.radionz.co.nz/international/pacific-news/344084/australia-accused-of-medical-negligence-on-manus-island>

# INTERNATIONAL HUMAN RIGHTS LAW

According to International human rights law, States parties have a duty to respect the right to health by ensuring that all persons have equal access to health services, regardless of their legal status and documentation. Under the right to health, health-care facilities, goods and services should be available, accessible and of good quality.

Refugees and asylum seekers are entitled to protection under the Convention relating to the Status of Refugees (the 'Refugee Convention') by Australia, the place where they first claimed asylum. Instead of providing these protections the Australian government has forcibly removed people to PNG and Nauru. As a result of these transfers, and because the Australian government remains in effective control of the refugees held in PNG, Australia is ultimately responsible for ensuring that refugees and asylum seekers are able to exercise their right to the highest attainable standard of physical and mental health.

Australia has ratified the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, and Convention on the Rights of Persons with Disabilities, which contain provisions that require Australia to respect, protect and fulfil the right to the highest attainable standard of health. In addition, Australia has ratified the International Covenant on Economic, Social and Cultural Rights, creating obligations to provide equal access to health care regardless of a person's legal status and ensure that health information is provided in languages commonly spoken by migrants in the host country.<sup>33</sup>

In a 2017 report, the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health noted the vulnerability of refugees and migrants not being provided with adequate psycho-social support and said,<sup>34</sup>

**“Mental health services ... must respect the principles of medical ethics and human rights (including “first, do no harm”), choice, control, autonomy, will, preference and dignity.<sup>40</sup> Overreliance on pharmacological interventions, coercive approaches and in-patient treatment is inconsistent with the principle of doing no harm, as well as with human rights... Many within those populations [including refugees and migrants] are**

**needlessly medicalized and suffer from coercive practices, based on inappropriate and harmful gender stereotypes.”**

International law directs that the use of transit centres (such as those used on Manus Island), directed residence or other restrictions on freedom of movement, must not obstruct individuals from enjoying their rights, including the right to health.<sup>35</sup>

Australia's obligation to ensure that refugees and asylum seekers sent offshore have access to adequate health care, including by sending them to Australia for further treatment when necessary has been upheld by Australian courts. In two recent Federal Court decisions, the Minister for Home Affairs (formerly called Minister for Immigration and Border Protection) was found responsible for providing competent health care to refugees and asylum seekers sent to Nauru because they rely on the Australian government for their subsistence.<sup>36</sup> As refugees and asylum seekers under offshore processing depend on the Australian government to directly or indirectly provide for their food, water, housing, security and medical care, there is a responsibility to provide these services competently.<sup>37</sup> In a recent case<sup>38</sup> the Federal Court of Australia ordered a ten year old boy and his mother to be transferred to Australia for psychiatric and physical medical conditions, because of inadequate health care available in Nauru. In this case, IHMS staff provided evidence to support the claim that health care in Nauru was inadequate for the health needs of the child. The same legal standards apply to refugees and asylum seekers in PNG.

<sup>33</sup> Committee on Economic, Social and Cultural Rights, *Duties of States towards refugees and migrants under the International Covenant on Economic, Social and Cultural Rights*, 13 March 2017, UN ref: E/C.12/2017/1, available at <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmIBEDzFEovLCuW1AVC1NkPsgUedPIF1vfPMJbFePx56jVynBwivePdIEe4%2bUb4qsdJhuBDpCRS0wCXPjZ7VN7SXN0oRoXkZhcCuB9Z73iyU35LzveUjX0d7u>

<sup>34</sup> UN Human Rights Council, *Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*, 28 March 2017, A/HRC/35/21, available at: <http://www.refworld.org/docid/593947e14.html> [accessed 19 April 2018] at para 58.

<sup>35</sup> Amnesty International, *Irregular migrants and asylum seekers: Alternatives to Detention*, 2009, POL33/001/2009

<sup>36</sup> *AYX18 v Minister for Home Affairs* [2018] FCA 283; *S99/2018 v Minister for Immigration and Border Protection* [2016] FCA 483.

<sup>37</sup> *AYX18 v Minister for Home Affairs* [2018] FCA 283; *S99/2018 v Minister for Immigration and Border Protection* [2016] FCA 483.

<sup>38</sup> *AYX18 v Minister for Home Affairs* [2018] FCA 283.

## RECOMMENDATIONS

Australia must end its illegal policies of offshore processing. Until such time as it does, the Australian government remains responsible for ensuring that the refugees and asylum seekers it has removed to Papua New Guinea enjoy the highest attainable standard of physical and mental health, free from discrimination. To this end, the Australian government must:

1. Reinstate psycho-social support through torture and trauma counselling services for refugees and asylum seekers in PNG.
2. Reinstate translation services for refugees and asylum seekers to ensure health care information is provided in a language they understand.
3. Ensure that the new contract with PIH does not result in a decline in the accessibility, availability and quality of health care for refugees in PNG.
4. That Australian government, through its contract with PIH, ensures equal access of refugees to health care and health-related services, comparable to what is provided to other refugees arriving in Australia, and ensures the availability, accessibility, acceptability and quality of health facilities, goods and services.
5. Continue to facilitate the transfer of refugees to Australia when medical treatment or diagnoses cannot be undertaken in Papua New Guinea and ensure that the procedures on transfers are clear, effective, and determined by medical professionals based on medical needs.

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# HEALTH CARE CUTS

Over the past few months, the Australian government has substantially reduced health care provided to refugees and asylum seekers it sent to Papua New Guinea nearly five years ago. Reduced facilities and service hours are provided at a new clinic and refugees and asylum seekers no longer have access to torture and trauma counselling or translator services. They are forced to rely on PNG's public hospitals for after hours and emergency health care, increasing concerns over access to adequate health care.

Refugees and asylum seekers lack freedom of movement or the means to access health care without support, and have been sent to a place with limited access to health care because of the Australian government's cruel policies. The Australian government has the means to provide quality and affordable health care within its territory, but instead puts refugees in a location where accessing quality health care is difficult.

The Australian government must end its harmful policies of offshore processing, but in the meantime, remains responsible for the medical care of refugees and asylum seekers until it does.