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The enduring harm from permanent offshore processing arrangements in the Pacific Islands

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he 19th of July 2023 marked 10 years since the declaration by Australia's then-Prime Minister, Kevin Rudd, that 'as of today, asylum seekers who come here by boat without a visa will never be settled in Australia'.¹ This announcement followed Australia's reintroduction of offshore processing for asylum seekers arriving in Australia by boat without a valid visa on the Pacific Island nation of Nauru and Manus Island, Papua New Guinea (PNG) less than a year earlier on 13 August 2012.² Since the resumption of offshore processing in 2012, a total of 4,183 people have been detained in offshore immigration detention facilities on Nauru and Manus Island.³ Of those, 3,127 people were sent to offshore immigration detention on or after 19 July 2013. This group was labelled 'transitory persons' by the Australian government, and none have been allowed to permanently resettle in Australia.³

The mental, physical, familial, and public health harms of offshore immigration detention and/or processing for detained (and previously detained) asylum seekers of all ages have been welldocumented.^{4–13} Such harms include poor detention conditions,⁴ the indefinite length of detention,⁴ which further contributes to poor mental health,^{5,6} transfers between and within facilities resulting in the separation of family members,^{5,6} the lack of adequate legal assistance,⁷ the suboptimal standard and accessibility of mental and physical health services and supports,^{6–8} physical and sexual violence, including against minors,^{9,10} resignation syndrome (also known as traumatic withdrawal syndrome and contributing to a state of reduced consciousness) among children,^{8,11} and limited resettlement options.^{3,4} In addition to the above harms, Médecins Sans Frontières⁸ reported that almost two-thirds (62%) of the 208 refugees and asylum seekers they assessed on Nauru were diagnosed with moderate or severe depression, 25% met the diagnostic criteria for anxiety disorder, and 18% were diagnosed with post-traumatic stress disorder.⁸ Research has also found that levels of psychological distress reported among asylum seekers held on Nauru and Manus

Island increased with length of detention.¹² Furthermore, at least 14 people who were detained in Australian-run offshore immigration detention have died,³ including through medical neglect,⁴ as well as several by suicide.¹³

We recently investigated the epidemiology of non-fatal self-harm among asylum seekers detained on Nauru and Manus Island.¹⁴ Our findings demonstrated that episode rates of self-harm among asylum seekers on Nauru and Manus Island were 216 and 45 times higher than the general Australian population rates of hospital-treated selfharm, respectively.¹⁴ Importantly, rates of self-harm among asylum seekers on Nauru were also 52 times higher than rates of self-harm among asylum seekers living in community-based arrangements (largely on bridging visas) in Australia.¹⁴ These findings highlight the substantial burden of self-harm among asylum seekers subjected to offshore processing arrangements on Nauru and Manus Island compared with the general Australian population, and also compared with asylum seekers living in the Australian community.¹⁵

In addition to the mental, physical, familial, and public health costs of Australian offshore immigration processing for asylum seekers, there are also substantial financial costs for both the government and Australian taxpayers. On 19 September 2022 the details of an Australian government contract (under the leadership of newly elected Labor leader Anthony Albanese) were published,¹⁶ which allowed United States (US) private prison contractor Management and Training Corporation (MTC) to undertake 52 days of preparatory work for its impending takeover of the offshore immigration processing centre in Nauru.¹⁶ For this work, the Australian government paid MTC \$4.6 million AUD,¹⁶ whilst simultaneously paying previous contractor Canstruct International \$41 million AUD for its ongoing work.¹⁷ This was 12 days before Canstruct's existing contract–worth approximately \$1.82 billion AUD over a five-year period–ended on 30 September 2022.¹⁷

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Less than two weeks after the details of this contract were made public, MTC was again nominated as the 'preferred contractor' by the Australian government for a further contract–worth \$47.3 million AUD-to provide 'facilities, garrison, and reception services' in Nauru for a two-month period.¹⁸ The Australian government selected MTC-twice-against a backdrop of multiple serious and ongoing allegations made against MTC in the US.¹⁹ These include: (i) the wrongful detention of a US citizen who was held in solitary confinement for 23 hours a day in the Imperial Regional Detention Facility in California for 14 months;²⁰ and (ii) charges resulting from the 'gross negligence' and extreme security failures that allegedly led to the gang-rape of a woman in detention in Santa Fe County jail.²¹ Additionally, in November 2022, MTC was accused of defrauding Texas authorities of millions of dollars for in-prison therapeutic programs that it had allegedly not provided.²² Indeed, a complaint lodged with the Texas state auditor by US-based prisoner rights group LatinoJustice accused the prison operator of 'pandemic profiteering' and 'fraudulent conduct'.²³ The report submitted to the state auditor outlined in detail how prisoners were required to falsely 'sign off' on having participated in therapeutic programs purportedly provided by MTC during the COVID-19 pandemic, under the threat of disciplinary action, including having their parole revoked.²³ The allegedly falsified documents were then used by MTC to claim millions of dollars in funding from the state of Texas.²³ Following the public revelation of these accusations, the Australian government further extended MTC's contract until 31 January 2023²⁴ and agreed to pay an additional \$21 million AUD for maintaining the operation of the offshore immigration processing centre in Nauru.²⁴ This latest contractual amendment means that MTC will be paid a total of \$69 million AUD for this four-month period.²⁴

The aforementioned contracts were for work conducted in Nauru, the site of Australia's only remaining offshore immigration processing centre. In September 2021, the governments of Australia and Nauru signed a memorandum of understanding to enshrine a permanent form of offshore processing for asylum seekers transferred from Australia to Nauru.²⁵ The Nauruan president, Lionel Rouwen Aingimea, stated that this updated agreement 'takes the regional processing to a new milestone. It is (now) enduring in nature'.²⁵ Less than two weeks later, the Australian and Papua New Guinean governments announced plans to cease their mutual regional processing agreement on 31 December 2021.²⁶ Australia's home affairs minister, Karen Andrews, and the PNG border security minister, Westly Nukundji, stated jointly that the 'PNG government would assume full management of regional processing services and full responsibility for those who remain',²⁶ though they did not disclose the confidential agreement made in December 2021 (by the previous Liberal government under the leadership of Scott Morrison) for Australia to pay PNG to provide welfare and support for asylum seekers sent there by Australia.²⁷ The revelation of this secret agreement in late July 2023,²⁷ along with claims that Department of Home Affairs contracts worth billions of dollars may have involved payments to officials and politicians in PNG and Nauru,²⁸ have since led to the announcement of an Australian government inquiry into regional processing contracts.²⁹ Whilst the initiation of this inquiry has been welcomed by several human rights and community-based organisations, including Transparency International Australia³⁰-an anti-corruption group-and the Refugee Council of Australia,³¹ concerns have been raised about the limited nature of the

investigation, most specifically that it will not investigate Australia's policy of offshore immigration detention itself, which produced the need for such multi-million-dollar contracts.³¹

The most recent officially reported number of asylum seekers and refugees remaining in PNG as at 30 April 2023 was 84.³ On 24 June 2023, the last of the few remaining asylum seekers and refugees on Nauru,³ most of whom had been held in this location for more than nine years (with numbers detained on the island peaking at 1,233 people in August 2014)³ were transferred to Australia.³² The annual cost to the Australian government to hold a single detainee on Nauru in 2021 was more than \$4.3 million.³ Despite all asylum seekers and refugees now being transferred off Nauru and the detention facility being empty, the Australian government will continue to pay \$350 million AUD a year to keep the detention centre ready for any future arrivals by boat.³² The Australian government has also confirmed that it has not sought any commitments regarding resettlement pathways or permanent residency for those remaining in PNG.³³ In light of the Australian government's recently updated contractual agreements, and their seemingly identical approach to asylum seeker policy as the previous Liberal government under the leadership of Scott Morrison,³⁴ it appears highly likely that those remaining in PNG, and any asylum seekers sent to Nauru in future, will be subjected to considerable further preventable suffering.

The mental, physical, familial, human rights, and public health costs of Australia's brutal policy of offshore immigration processing can no longer be denied. These extensively documented costs highlight the comprehensive failure by successive Australian governments (from both sides of the political landscape) to safeguard the health and well-being of those subject to this policy. With Australia having now attempted to transfer its responsibilities to both Nauru and PNG-obligations that it cannot sidestep under international refugee and human rights law³⁵-and repeatedly engaged the services of a private US-based prison contractor, there are legitimate concerns for the well-being of the asylum seekers and refugees still held in PNG. There should also be serious concerns for any future boat arrivals who may be transferred to Nauru. By enshrining more enduring arrangements, the Australian government has placed these individuals at increased risk of further preventable psychological and physical harm. Conversely, there are numerous ways that the very large sums of public funds this required could have been redirected to prevent such harm and ensure a more positive outcome for those who look to Australia for protection. These include investing in more efficient visa processing arrangements, and more comprehensive and culturally appropriate healthcare and resettlement services. Facilitating the expansion of safe processing and resettlement options in the Australian community would likely lead to better health outcomes for both those who have already been subjected to this callous policy, as well as those who may require Australia's support in future.

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Author contributions

KH: Conceptualisation, writing – original draft, writing – review and editing, data curation; RB: Writing – review and editing.

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Conflicts of interest

The authors declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

References

- Hall, B, Swan, J. Kevin Rudd to send asylum seekers who arrive by boat to Papua New Guinea. *The Age* [Internet]. 2013 [cited 2023 Aug 8]; July 19. Available from: https://www.theage.com.au/politics/federal/kevin-rudd-to-send-asylum-seekerswho-arrive-by-boat-to-papua-new-guinea-20130719-2q9fa.html
- Australian Human Rights Commission. Asylum seekers, Refugees and Human Rights. Snapshot Report [Internet]. Sydney (AUST): AHRC; 2013 [cited 2023 Jan 23]. Available from: https://humanrights.gov.au/sites/default/files/document/ publication/snapshot_report_2013.pdf
- Refugee Council of Australia. Offshore Processing Statistics [Internet]. Sydney (AUST): RCOA; 2023 [cited 2023 Aug 23]. Available from: https://www.refugeecouncil.org.au/ operation-sovereign-borders-offshore-detention-statistics/
- Australian Human Rights Commission. Asylum Seekers, Refugees and Human Rights. Snapshot Report [Internet]. Sydney (AUST): AHRC; 2017 [cited 2023 Aug 19]. Available from: https://humanrights.gov.au/sites/default/ files/document/publication/AHRC_Snapshot%20report_2nd%20edition_2017_ WEB.pdf
- Coffey G, Kaplan I, Sampson RC, Tucci M. The meaning and mental health consequences of long-term immigration detention for people seeking asylum. Soc Sci Med 2010. https://doi.org/10.1016/j.socscimed.2010.02.042.
- Australian Human Rights Commission. The forgotten Children: National Inquiry into Children in Immigration Detention [Internet]. Sydney (AUST): AHRC; 2014 [cited 2023 Aug 19]. Available from: https://www.humanrights.gov.au/our-work/ asylum-seekers-and-refugees/publications/forgotten-children-national-inquirychildren
- Amnesty International Australia. This is Still Breaking People. Update on Human Rights Violations at Australia's Asylum Seeker Processing Centre on Manus Island, Papua New Guinea [Internet]. Sydney (AUST): Amnesty International Australia; 2014 [cited 2023 Aug 19]. Available from: https://www.amnesty.org.au/wpcontent/uploads/2016/09/This_is_still_breaking_people_update_from_Manus_ Island.pdf
- Médecins Sans Frontières. Indefinite Despair. The Tragic Mental Health Consequences of Offshore Processing on Nauru [Internet]. Sydney (AUST): MSF; 2018 [cited 2023 Aug 19]. Available from: https://www.msf.org.au/sites/default/files/ attachments/indefinite_despair_4.pdf
- 9. Legal and Constitutional Affairs Reference 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 [Internet]. Canberra (AUST): Senate Legal and Constitutional Affairs Committee; 2017 [cited 2023 Aug 19]. Available from: http://www.aph. gov.au/Parliamentary_Business/Committees/Senate/Legal_and_Constitutional_ Affairs/NauruandManusRPCs/Report
- Moss P. Review into Recent Allegations Relating to the Conditions and Circumstances at the Regional Processing Centre in Nauru [Internet]. Canberra (AUST); 2015 [cited 2023 Aug 19]. Available from: https://www.documentcloud.org/ documents/1689988-moss-report-review-conditions-circumstances-nauru.html
- Newman, L. Explainer: what is resignation syndrome and why is it affecting refugee children? *The Conversation* [Internet]. 2018 [cited 2023 Aug 19]; August 18. Available from: https://theconversation.com/explainer-what-is-resignationsyndrome-and-why-is-it-affecting-refugee-children-101670
- 12. Essex R, Kalocsányiová E, Young P, McCrone P. Psychological distress in Australian onshore and offshore immigration detention centres from 2014-2018. *J Immigr Minority Health* 2022;**24**(4):868–74.
- Australian Border Deaths Database. Australian Border Deaths Database [Internet]. Melbourne (AUST): Monash University; 2022 [cited 2023 Jan 30]. Available from: https://www.monash.edu/arts/border-crossing-observatory/research-agenda/ australian-border-deaths-database
- Hedrick K, Armstrong G, Coffey G, Borschmann R. Self-harm in the Australian asylum seeker population: A national records-based study. SSM Popul Health. 2019;8:100452.

- Hedrick, K, Armstrong, G, Borschmann, R. Self-harm among asylum seekers in Australian immigration detention. Lancet Public Health. 2019;4(12):e604. https:// doi.org/10.1016/S2468-2667(19)30221-X.
- Australian Government Contract Data, AusTenders. Facilities, Garrison & Reception Services in Nauru [Internet]. Belconnen (AUST): Government of Australia; 2022 [cited 2023 Jan 23]. Available from: https://www.tenders.gov.au/Cn/Show/ 6f5bd5be-3a4f-4408-9b40-5981d3f20831
- Australian Government Contract Data, AusTenders. Facilities, garrison & reception Services in Nauru [Internet], [cited 2023 Jan 23]. Available from:, 2022, Belconnen (AUST): Government of Australia https://www.tenders.gov.au/Cn/Show/ ba1f752d-8177-44d3-9aa3-49e7439a3fce.
- Australian Government Contract Data, AusTenders. Facilities, Garrison & Reception Services in Nauru [Internet]. Belconnen (AUST): Government of Australia; 2022 [cited 2023 Jan 23]. Available from: https://www.tenders.gov.au/Cn/Show/ c680beb9-121c-4afd-8d38-2848da3e9e86
- Doherty, B, Knaus, C. The 'egregious' history of likely new Nauru operator includes allegations of gang rape and murder in its US prisons. *The Guardian Australia* [Internet]. 2022 [cited 2022 Sep 5]; September 5. Available from: https://www.theguardian.com/australia-news/2022/sep/05/the-egregioushistory-of-likely-new-nauru-operator-includes-allegations-of-gang-and-in-its-usprisons
- Lawyers' Committee for Civil Rights of the San Francisco Bay Area. Carlos Murillo Vega v. Management and Training Corporation [Internet]. San Francisco (US): LCCRSF; 2022 [cited Jan 23, 2023]. Available from: https://lccrsf.org/wp-content/ uploads/2021/10/2021-10-14-AB3228-Complaint.pdf
- Federal Contractor Misconduct Database. Sanchez v. Management and Training Corporation et al. (Violation of Civil Rights) [Internet]. Washington (US): POGOS; 2022 [cited 2022 Oct 22]. Available from: https://www.contractormisconduct. org/misconduct/680/sanchez-v-management-and-training-corp-et-al-violationof-civil-rights
- The Texas Tribune. Prison contractor MTC accused of billing Texas millions for inmate treatment programs it didn't provide. *The Texas Tribune* [Internet]. 2022 [cited Jan 23, 2023]; November 22. Available from: https://www.texastribune. org/2022/11/22/texas-prison-parole-mtc-fraud-allegation/
- LatinoJustice. Complaint Submitted to the Texas State Auditor Regarding Contracts Between Management and Training Corporation and the Texas Department of Criminal Justice [Internet]. New York (US): LatinoJustice PRLDEF; 2022 [cited Jan 23, 2023]. Available from: https://www.latinojustice.org/sites/default/files/2022-11/Complaint%20to%20the%20Auditor.pdf
- Australian Government Contract Data, AusTenders. Facilities, Garrison & Reception Services in Nauru [Internet]. Belconnen (AUST): Government of Australia; 2022 [cited 2023 Jan 23]. Available from: https://www.tenders.gov.au/Cn/Show/56eca390-0360-4025-ab6e-e31711d3fa1f
- 25. Home Affairs Portfolio. Joint media release with the Hon. Lionel Rouwen Aingimea – New agreement to secure our region from maritime people smuggling. Minister for Home Affairs Media Release on 24 September 2021 [Internet]. Canberra (AUST): Government of Australia; 2021 [cited 2023 Jan 23]. Available from: https:// minister.homeaffairs.gov.au/KarenAndrews/Pages/maritime-peoplesmuggling.aspx
- 26. Home Affairs Portfolio. Joint media release with the Hon. Westly Nukundj MP Finalisation of the regional resettlement arrangement. Minister for Home Affairs Media Release on 6 October 2021 [Internet]. Canberra (AUST): Government of Australia; 2021 [cited 2023 Jan 23]. Available from: https://minister.homeaffairs. gov.au/KarenAndrews/Pages/finalisation-of-the-regional-resettlementarrangement.aspx
- 27. Senate Standing Committee on Legal and Constitutional Affairs Budget Estimates. Regional Processing Arrangements Commonwealth Payment to Papua New Guinea [Internet]. Canberra (AUST): The Senate Standing Committee on Legal and Constitutional Affairs; 2023 [cited 2023 Jul 23]. Available from: https://www.documentcloud.org/documents/23883184-senate-committee-commonwealth-payment-to-papua-new-guinea
- The Age. Home Truths. *The Age* [Internet]. 2023 [cited Jul 23]; July 2023. Available from: https://www.theage.com.au/politics/federal/home-truths-20230725-p5dr4q.html
- Thompson, A, Knott, M. Minister announces inquiry into offshore detention contracts scandal. *The Age* [Internet]. 2023 [cited Jul 31]; July 31. Available from: https://www.theage.com.au/politics/federal/dutton-wants-to-refer-home-affairsto-national-corruption-watchdog-20230731-p5dsk8.html
- Smith, M. Anti-corruption group welcomes inquiry into Australia's regional processing procurement. ABC Pacific [Internet]. 2023 [cited Aug 7]; August 7. Available from: https://www.abc.net.au/pacific/programs/pacificbeat/nauruinquiry-welcomed-by-anti-corruption-group/102696264
- Refugee Council of Australia. Refugee Council of Australia renews calls for a royal commission into offshore detention contracts. RCOA [Internet]. 2023. [cited Aug 1]; August 1. Available from: https://www.refugeecouncil.org.au/royalcommission-offshore-detention-contracts/
- Doherty, B, Gillespie, E. Last refugee on Nauru evacuated as Australian government says offshore processing policy remains. *Guardian Australia* [Internet].
 2023 [cited July 23]; June 25. Available from: https://www.theguardian.com/ australia-news/2023/jun/25/last-refugee-on-nauru-evacuated-as-australiangovernment-says-offshore-processing-policy-remains

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- Legal and Constitutional Affairs Legislation Committee. Senate Estimates 25 October 2021 [Internet]. Canberra (AUST): Government of Australia; 2021 [cited 2023 Jan 23]. Available from: https://parlinfo.aph.gov.au/parlInfo/search/display/ display.w3p;query=ld%3A%22committees%2Festimate%2F25201%2F0001%22
- Newhouse, G, Fine, D. After the Morrison government, we hoped for a new way on refugees. Instead it is a brutal business as usual. *Guardian Australia* [Internet]. 2023 [cited Aug 19]; June 27. Available from: https://www.theguardian.com/

comment is free/2023/jun/27/after-the-morrison-government-we-hoped-for-a-new-way-on-refugees-instead-it-is-a-brutal-business-as-usual

35. Kaldor Centre for International Refugee Law. Who is legally responsible for offshore processing on Manus and Nauru? Factsheet [Internet]. Sydney (AUST): University of New South Wales; 2021. [cited 2023 Aug 8]. Available from: https:// kaldorcentre.unsw.edu.au/publication/offshore-processing-australia%E2%80% 99s-responsibility-asylum-seekers-and-refugees-nauru-and