



~~CONFIDENTIAL~~

Andrew Wilkie MP
INDEPENDENT MEMBER FOR DENISON

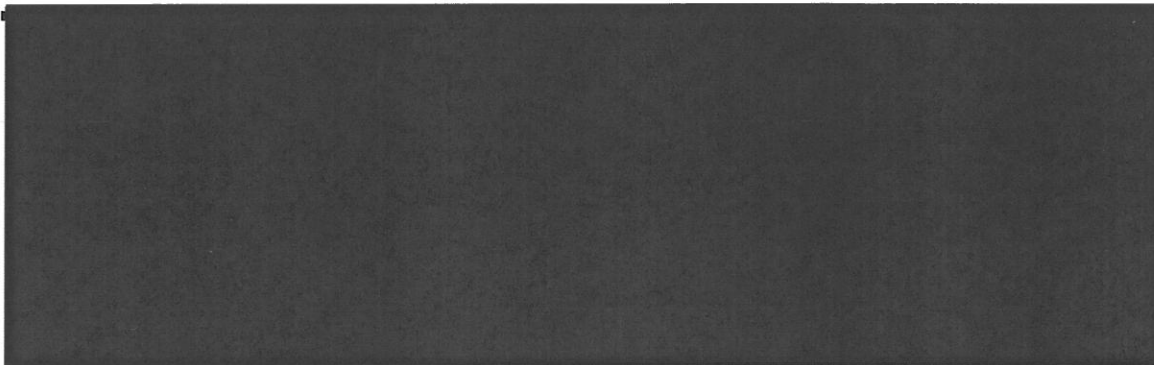
15 OCT 2015

Mrs Fatou Bensouda
International Criminal Court Prosecutor
C/- Information and Evidence Unit
Office of the Prosecutor
Post Office Box 19519
2500 CM The Hague, The Netherlands

Dear Mrs Bensouda

I refer to my previous correspondence with your Office requesting that you initiate an Article 15 investigation into the now former Prime Minister of Australia, the Hon Tony Abbott MP, and his Cabinet, for crimes against humanity in relation to asylum seekers (your reference OTP-CR-322/14).

While my complaint to your office concerned former Prime Minister Tony Abbott and his Cabinet, I note that the Australian Government policies of most concern here were also applied by previous governments and are still in place under Mr Abbott's successor, the Hon Malcolm Turnbull MP.



Indefinite detention of children

The table below outlines a random sample of children currently being detained at the NRPC. The actual days these children have spent in detention are excessive and, I suggest, demonstrate imprisonment and deprivation of physical liberty under Article 7 (1)(e) of the Rome Statute. The information was current as of 19 August 2015. To my knowledge no children have been released from the NRPC since this date. In addition, I have been

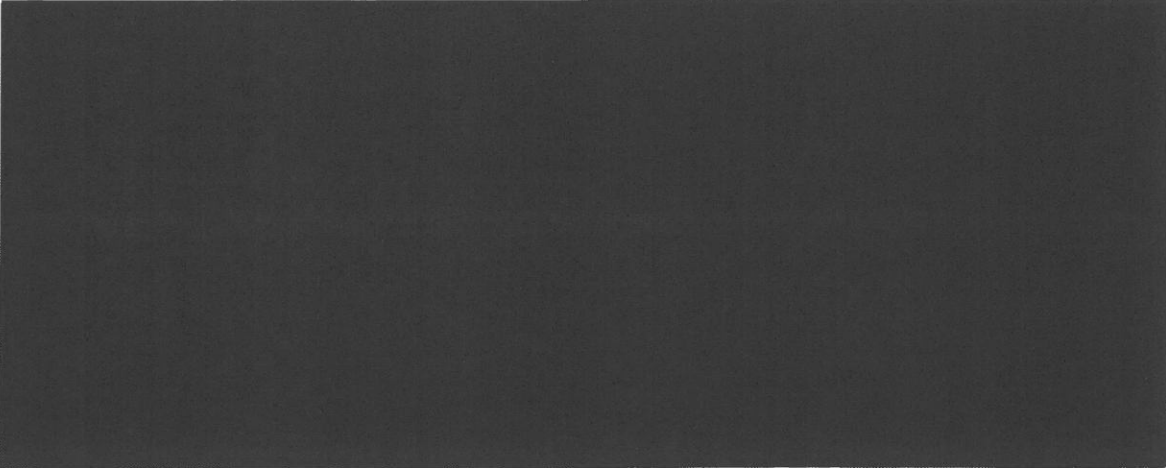
informed that for some children the Refugee Status Determination process requirements have been completed but they still remain in detention indefinitely.

Date of Birth	Age	Gender	Nationality	Date of arrival	Days in detention
08/01/1998	17	Female	Iran	20/06/13	790
29/03/2002	13	Male	Iran	20/06/13	760
29/03/2008	7	Male	Iran	22/07/13	759
03/09/2002	12	Female	Iran	22/07/13	759
17/01/2000	15	Male	Iran	25/07/13	756
4/03/2001	14	Female	Myanmar	26/07/13	755
11/10/2005	9	Female	Myanmar	26/07/13	755
16/03/2003	12	Female	Myanmar	26/07/13	755
02/12/2010	4	Female	Myanmar	26/07/13	755
25/08/2003	11	Female	Nepal	15/09/13	704
08/07/2012	3	Male	Nepal	15/09/13	704
13/04/1999	16	Female	Myanmar	21/10/13	668
20/11/1998	16	Female	Stateless	06/12/13	622
19/06/2001	14	Female	Stateless	06/12/13	622
30/04/2005	10	Male	Stateless	06/12/13	622
07/03/2011	4	Female	Stateless	06/12/13	622
19/06/2001	13	Female	Stateless	06/12/13	622
16/03/2003	12	Female	Myanmar	22/06/14	425
29/06/1998	16	Male	Sri Lanka	02/08/14	382
26/07/2000	15	Male	India	02/08/14	382
21/10/2002	12	Female	Sri Lanka	02/08/14	382

The psychological and physical effects as a result of this long and indefinite detention on already traumatised children are extreme. Over half the children listed above are suffering from psychological conditions attributable to their current situation with many on anti-depressants, psychotropic and sedative medication.

Forced family separation

Family separation is also commonplace and some families have been separated for over 12 months. I am told that self-harm and starvation is occurring right now in the NRPC due to the erosion of people's coping mechanisms and worry about their family, which is compounded by the lack of communication regarding when families will be reunited.



In another example, a family of six travelled separately for safety reasons so that the mother, one 23 year old twin son and a 25 year old daughter travelled first and are now living in Australia on Temporary Protection Visas. The father, the other twin and a 30 year old daughter left four months later and have now been detained in Nauru for 27 months with the family separated for 3 years. The twin on Nauru has sewn his lips together twice and wants to return to his country of origin. Family there assure the father in Nauru that if any of them return they will be arrested along with other family members. All of the family members are suffering psychologically.

Another family has been separated with the mother and daughter being allowed to reside in Australia for the last 12 months and the father and son still in detention on Nauru. The son is 20 years old, is on anti-depressants and now weighs just 42 kilos. He rarely emerges from his tent. The family have no idea when, or if, they will be reunited.

Another incident, now reported in the Australian media, involves a 23 year old Iranian woman, Nazanin, who went missing for several hours on 19 May 2015. She was found naked, disorientated and badly beaten and told the local police that she had been attacked and gang-raped. No charges have been laid. Nazanin attempted suicide after the attack and was finally moved to a Brisbane hospital after she almost died due to organ failure from refusing food and water. This did not occur until three months after the incident during which time she was held in isolation. At the time of medical evacuation, Nazanin's mother and brother were told that they would also be taken to Australia. They have now been told they must stay in Nauru. The family has now been separated for five weeks under extremely traumatic circumstances. Nazanin's mother, Farrah, has tried to commit suicide four times and is now in isolation under 24-hour watch.

Medical evacuations for NRPC were previously always to Australia but I am told that now a majority of people are transferred to Papua New Guinea. This includes pregnant women. The deportation of a family member to a different and unknown country adds to the trauma.

Resettlement of asylum seekers in Nauru

The forced release of asylum seekers into the foreign sovereign nation of the Republic of Nauru is in breach of Article 7(1)(d) of the Rome Statute, as it forcibly transfers people against their will and also contravenes Australia's obligation under the Refugee Convention. The Refugee Convention specifically requires Australia to apply domestic laws that establish border integrity in such a way that person fleeing persecution will be protected.

For refugees in the NRPC, and now more so for those who have been resettled in Nauru, rape and sexual assault is an everyday threat. There is an increasingly high number of assaults on refugees in Nauru including violent sexual assault. Video footage was released on the ABC's 7.30 on 28 September 2015 of a 26 year old Somali refugee trying to communicate with the Nauruan Police Force immediately after she had been raped by two men. The police allegedly took four hours to respond. Another refugee has also reported being raped and according to 7.30 her medical files reveal that she is now pregnant. Both women have said they have little faith in the Nauruan Police Force and both women are still living in the refugee settlement camp in Nauru. In the past three years, detention centre operators have referred 50 incidents of sexual assault to local police for investigation and just two convictions have been secured. As of 20 July 2015 the Department reported that at the NRPC there was 19 ongoing investigations into allegations of sexual assaults against adults and 15 against children. It is the standard practise of the Department of Immigration and Border Protection to report all assaults to the Nauruan Police Force with all victims of sexual assault being cared for at the Republic of Nauru Hospital.

Refugees who have been released into the Nauruan community are physically and verbally attacked by the Nauruans on a daily basis and their homes are frequently vandalised and burgled. Baitsi House, that accommodates 14 young refugee males, has been broken into five times. These are vulnerable young men with no family to protect them. For example a break-in occurred on 8 August 2015. The boys knew the perpetrators and reported the incident to the Nauruan Police Force. They refused to take a statement, instructing the boys to write their own, which they did with the assistance of their CONNECT case manager. [REDACTED]
[REDACTED] On 30 September another group of unaccompanied minors were physically assaulted by minors.

The offshore detention of refugees at the NRPC already causes extensive suffering and serious mental injury. This is compounded by the fact that refugees are aware of Australia's policy to resettle them in the Republic of Nauru where they have little protection and very limited prospects for their future.

Unaccompanied Refugee Minors

The future of Unaccompanied Refugee Minors is particularly dire as they are a recognised vulnerable group that have been repeatedly targeted by some members of the local Nauruan community.

At the time of writing there are 12 Unaccompanied Refugee Minors in Nauru who, for 10 months, were unable to access education or employment. The only senior secondary school on Nauru consistently denies enrolment to the boys, which is in breach of the Convention on the Rights of the Child and the Refugee Convention. CONNECT, the contracted provider of welfare and education services to the refugees in Nauru, offers the boys 3-5 hours tuition a week in adult classes. The boys are still unable to gain employment because there are no jobs on Nauru.

As outlined in my previous submissions, the Australian Government is inflicting great suffering and serious injury to mental and physical health by the inhumane conditions to which asylum seekers are subjected in detention centres, and now also to those who have been forcibly resettled in the Republic of Nauru.

I remain available to meet with you and your Office at any time.

Yours sincerely



Andrew Wilkie MP
Independent Member for the Federal Division of Denison