

Project SafeCom News and Updates

Wednesday, 27 January 2016

Subscribe and become a member here: <http://www.safecom.org.au/ref-member.htm>

1. Ruth Barson: Holocaust remembrance teaches lessons for humanity
2. Danish parliament approves plan to seize assets from refugees
3. French authorities threaten to bulldoze 'the jungle' camp in Calais
4. Stan Grant's speech on racism: Is this Australia's 'Martin Luther King moment'?
5. Malcolm Turnbull's foreign policy hypocrisy on East Timor
6. Louis A Coutts: How the High Court enabled indefinite detention
7. Hugh Mackay: How will history judge us for our detention policies?
8. Antony Loewenstein: Australia's refugee policies: a global inspiration for all the wrong reasons
9. Robert Manne: Resettlement is the way out of detention mess
10. Australia's offshore detention damages asylum seekers because it's supposed to
11. Australia's harshest detention centre revealed
12. Julie Wark - Nauru: What Reality is This?
13. Australian doctor challenges Turnbull, Shorten over 'torture-like conditions' at detention centres
14. NSW Premier Mike Baird, in Australia Day address, says doors must open to refugees
15. Labor MP Melissa Parke, fierce critic of offshore detention, won't recontest seat
16. Asylum seekers start knitting project to donate clothes, toys to Australian charities
17. Turnbull urged to allow New Zealand to resettle refugees held on Nauru
18. Manus Island residents air grievances about hosting Australian detention centre
19. Reza Barati witness on Manus warned: 'It's very easy to kill you'
20. Tim Wilson: government should apologise over sacked Nauru Save the Children staff
21. Scott Morrison won't apologise after claims detainees coached to self-harm
22. Save the Children compensation, apology for Nauru removal a matter for Immigration Minister, Morrison says
23. More than 930 academics call for children to be released from detention
24. Legal showdown looming on children in detention
25. Child refugees tell of bullying on Nauru: 'They are rude to us, they punch us'
26. Peter Dutton's children claims 'misleading': Gillian Triggs
27. Australia, not UN, has final say on Syrian and Iraqi refugee intake, Peter Dutton says
28. Immigration detainees four times more likely to suffer severe mental distress
29. Protesters who disrupted men's tennis final in Melbourne charged a year on
30. People smuggler cash scandal: Jail for boat crew paid by Australian official to turn back

1. Ruth Barson: Holocaust remembrance teaches lessons for humanity

If Australia is serious about protecting human rights, it should codify and enforce them.

Sydney Morning Herald
January 27, 2016 - 12:00AM
Ruth Barson

The emergence of international human rights law and the tragedy of the Holocaust are indelibly linked. If the Holocaust represents the worst of humanity, human rights laws arguably represent the best.

In 2005 the United Nations resolved to make today, January 27, Holocaust Remembrance Day – the day the notorious Nazi extermination camp Auschwitz-Birkenau was liberated.

The resolution is twofold. It says we must remember the victims of the genocide: approximately 9000 gay men; 250,000 disabled people; 1 million Roma; 6 million Jews; and more. It also says we must go beyond remembrance and "apply the lessons of the Holocaust to today's world. And we must do our utmost so that all peoples may enjoy the protection and rights for which the United Nations stands."

Last year I visited Auschwitz. I stood at the end of the train tracks where those few who were allowed to live in hell were randomly separated from the hundreds of thousands who were sent straight to their death. I felt rage. More than 1.1 million people were murdered at Auschwitz – the vast majority Jewish people who had been locked into cattle trains and transported from across Europe.

Auschwitz forces us to confront the most gruesome, unfathomable parts of humanity: the rows of blackened ovens, the low ceilings of the gas chambers, Josef Mengele's human experiment wing, the silence. The camp is enormous – breathtaking in its inhumanity.

The term "genocide" often evokes images of a breakdown in the rule of law. But Auschwitz is the opposite of chaos: it was planned, systematised, mandated, documented mass-murder by one of the most technologically advanced nations in the world. It represents the denial of everything we hold dear as human beings: love, dignity, equality, life.

So it was extraordinary that in the aftermath of the Holocaust, and while reckoning with the horror, the world came together in an unprecedented way and with a vision for a harmonious, unified humanity. The United Nations was created, the global body charged with, among other things, the oversight of our universal, fundamental human rights – our shared, core values.

The landmark 1948 Universal Declaration of Human Rights, and the treaties that followed, go beyond symbolism, beyond being a statement of good intentions. They are intended to be binding, institutionalised, and turned into law in all signatory countries, Australia included.

The human rights system is not perfect and not a panacea against abuse. Genocides and serious human rights violations have occurred and are still occurring. But protecting and upholding human rights – making them part of the architecture of governments around the world – goes a long way towards stopping abuses and the harm caused in the first instance.

Australia is the only western democracy without a national human rights act enshrined in legislation or our constitution. This means that in Australia human rights are largely a matter of good will: they are protected so long as our governments act responsibly and with restraint.

Writing about the Holocaust in the same context as contemporary Australian issues is uncomfortable; the gravity of the Holocaust, the magnitude of death camps such as Auschwitz, are unique and incomparable.

But being at Auschwitz reminded me of how entangled my story is with that most tragic time in human history. I am Jewish and I am a grandchild of Holocaust survivors. And because of their luck, stoicism and bravery, I am also an Australian human rights lawyer. I know that the harm caused by human rights violations can be felt for generations. So part of my story, part of the Holocaust story, is that of survival, continuity and the integration of history's painful lessons.

Enshrining global human rights standards – such as the right to dignity, to equality, to life – into domestic law is critical. Without recourse to codified, formalised protection, human rights are of little use to those confronted by persecution. In other words, human rights are most valuable when they are enforceable.

The chances of the Holocaust occurring in Australia today are remote, but we should have no tolerance for even the shadows of racism and xenophobia. These are dangerous in any guise.

Also, we must be vigilant in resisting the erosion of rights. By allowing the rights of others to be removed, we are undermining the very foundations upon which we claim our own rights.

If Australia is serious about protecting human rights, it should codify and enforce them. A national human rights act would undoubtedly benefit Australia. It would embed human rights into our laws, into our culture, such that our attitude towards straying from them – as we currently do in relation to some disadvantaged and minority peoples – is not so permissive.

Today is about remembering the millions killed because of hatred and those few who survived. It's also about looking forward. Upholding, respecting and protecting universal human rights is the best tool we have for ensuring governments never again reject our humanity.

---->>> *Ruth Barson is a senior lawyer at the Human Rights Law Centre.*

<http://www.smh.com.au/comment/holocaust-remembrance-teaches-lessons-on-human-rights-20160125-gmdy21.html>

2. Danish parliament approves plan to seize assets from refugees

New law allows police to search asylum seekers to secure cash and valuables, as European leaders continue to call for sealing of Balkan borders

The Guardian

David Crouch in Copenhagen and Patrick Kingsley in London

Wednesday 27 January 2016 06.50 AEDT

European states have reacted in some of the most drastic ways yet to the continent's biggest migration crisis since the second world war, with Denmark enacting a law that allows police to seize refugees' assets.

The vote in the Danish parliament on Tuesday, which followed similar moves in Switzerland and southern Germany, came as central European leaders amplified calls to seal the borders of the Balkans, a move that would risk trapping thousands of asylum seekers in Greece.

Under the new Danish law, police will be allowed to search asylum seekers on arrival in the country and confiscate any non-essential items worth more than 10,000 kroner (£1,000) that have no sentimental value to their owner.

The centre-right government said the procedure is intended to cover the cost of each asylum seeker's treatment by the state, and mimics the handling of Danish citizens on welfare.

Elsewhere in Europe, the Czech and Slovakian prime ministers condemned Greece's inability to prevent hundreds of thousands of refugees from moving onwards to northern European countries.

They jointly called for increased border protection to block the passage of refugees from Greece, a day after EU interior ministers said they were willing to consider the suspension of the Schengen agreement that allows free passage between most EU countries.

Robert Fico, the Slovakian prime minister, said: "There must be a backup plan, regardless of whether Greece stays in Schengen. We must find an effective border protection."

The idea outraged the Greek government, which must now consider the possibility of hundreds of thousands of refugees being unable to leave Greece, which is struggling with high unemployment and economic strife.

Nikos Xydakis, Greece's alternate foreign minister for EU affairs, called the idea "hysterical" and warned that it could lead to the fragmentation of Europe. "If every country raises a fence, we return to the cold war period and the iron curtain. This isn't EU integration – this is EU fragmentation."

The Greek government faces calls to take tougher action to block the passage of the thousands of refugees arriving in Greece by boat every day, but Xydakis said the only way of stopping them would be to shoot them – an option that Greece was not willing to take, even if it meant being fenced in.

"If Europe is to put Greece in a deep humanitarian crisis, let's see it [happen]," he said in an interview with the Guardian on Tuesday. "We are in the sixth year of a depression and [have] unemployment of 25% ... But if our colleagues and partners in the EU think that we have to let people drown or sink their boats, we can't do that. Maybe we will suffer, but we will manage."

Amid the disagreement, the UN said the prospects of Europe standing together to share the burden of the refugee crisis seemed ever more distant.

Peter Sutherland, the UN secretary general's special representative for international migration, said: "Day by day, the likelihood of a common European approach to the migrant crisis seems to be receding – and such a common approach is indispensable to finding any solutions."

The darkening mood was embodied by Denmark's decision to seize refugee assets, a move that the UN described as concerning and regrettable. An academic specialist confirmed that Danes are expected to use their own income before

claiming benefits, but pointed out that except on rare occasions, police do not have the right to search Danish welfare claimants.

Rights campaigners have criticised the laws, which will also prevent refugees from applying to be reunited with their children for three years, and will only give war refugees from Syria one year of protection.

Earlier this month, Marcus Knuth, a government spokesman, told the Guardian that it was “ludicrous” to compare the new law to the treatment of Jews during the Holocaust, since similar laws apply to Danish citizens receiving benefits. “We’re simply applying the same rules we apply to Danish citizens who wish to take money from the Danish government,” he said.

But opponents of the law argue that while refugees can in general still expect to be treated humanely in Denmark, the legislation is ethically unsound. Pernille Skipper, a member of parliament and the legal affairs spokesperson for Enhedslisten, a leftwing Danish party, said: “Morally, it is a horrible way to treat people fleeing mass crimes, war, rapes. They are fleeing from war and how do we treat them? We take their jewellery.”

Asylum seekers in Denmark burst into tears when they heard the news that the law had passed.

Jean Claude Mangomba, a 48-year-old English teacher and former army officer, fled Kinshasa in the Democratic Republic of the Congo after he was arrested for supporting a priest who opposed the Congolese regime. “Most people are fleeing war, they are running away, and when they flee they take with them all that they can. That doesn’t make them wealthy or criminals,” he said.

“And if they bring money with them, it will help Denmark. They will exchange the money into Danish kroner and spend it here. So why does the Danish government want to take this money away from them, take away their valuable objects? It makes no sense.

“The new law is very bad, really they just want to send us back. I didn’t choose to come here, I came here suddenly, I fled, I was lucky to get out, I was desperate.

“I have not seen my wife and three children for three years. With the new law, it will take many more years before I can see them again. I am losing hope. The asylum system here kills people slowly.”

Klaus Petersen, a professor at the Centre for Welfare State Research near Odense, confirmed that Danish welfare claimants have to give up their savings before they receive benefits – but not their valuables, unlike refugees. They will also not be searched, except in rare circumstances.

“A Danish citizen could be searched in an extreme case if the municipality has a suspicion of fraud, but you need court permission to do so. For refugees, you would not need a court permission,” he said.

A regional spokesman for the UN refugee agency, Zoran Stevanović, said: “Denmark has traditionally been an inspiration to others for setting human rights standards. However, rather than showing and providing solidarity and sanctuary, Denmark is focusing on developing and implementing individual and restrictive responses. UNHCR regrets that Denmark is introducing restrictions to its asylum policy rather than focusing on building and promoting a fair distribution of asylum seekers within all countries in the EU.

“The law introduces restrictive measures on asylum seekers that increasingly hinder their ability to apply for asylum in Denmark. We are particularly concerned by reduced social benefits and restricted access to family reunification. We are also concerned that refugees with temporary protection are only allowed to reside in Denmark for one year and yet are only able to apply for family reunification after three years.”

Crying in the aftermath of the law’s implementation, Zohra, 21, from Afghanistan, said: “To refugees thinking of coming to Denmark, I would tell them: if there is any chance you can stay where you are, then don’t come here to Europe, especially to Denmark. The Danish government is making harder and harder rules for everyone.

“People are not coming here just for fun, they have enormous problems at home. When I decided to flee Afghanistan, I didn’t chose a country to go to because it’s nice or rich, I just came here to be safe, to live. We have only a little money, but we need it to live, to start a new life with that money.”

<http://www.theguardian.com/world/2016/jan/26/danish-parliament-approves-plan-to-seize-assets-from-refugees>

3. French authorities threaten to bulldoze 'the jungle' camp in Calais

ABC Radio CAF - AM

By ABC London bureau chief Lisa Millar

First posted Mon 18 Jan 2016, 6:26am

Updated Mon 18 Jan 2016, 7:12am

Tensions are rising at the squalid refugee camp in Calais nicknamed "the jungle" as authorities threaten to bulldoze parts of the squat.

Volunteers and charity groups have been rushing to meet a deadline to move tents and wooden huts to other parts of the camp in the French port city.

Officials want to create more of a barrier between the "jungle" camp and the highway, where trucks pass on their way to England.

Every night migrants try to stow away or simply break through wire and walk through the tunnel.

The camp has been home for 6,000 migrants and asylum seekers, and is estimated at about 4,000 currently.

Asylum seeker Mohammed said as soon as it was dark he would try to find an escape.

"Monday, Tuesday, every day, I go to the road to try to get into the back of a truck. But it is hard because you need a knife to slice a hole to get in," he said.

"Every night we go, except Sunday because there are not a lot of trucks on Sunday."

Calais camp situation desperate, volunteers say

Australian Uniting Church reverend Bill Crews has been to the camp three times and said the situation was becoming desperate, despite the sense of community.

"There is the mud, the fact we are on an old flood plain and a chemical waste dump so God knows what is in the mud, it gets all over your clothes," he said.

"And the rain goes right through the tents."

Reverend Crews has spoken with some of the migrants and refugees and offered support to volunteers such as Care4Calais founder Clare Moseley, who left her job as a tax accountant and her family in London to volunteer.

"When you come to places like this it is very hard to leave because you see humanity at its most needy and you find the saints, the people who are doing all this," reverend Crews said.

"And you are actually with people who are very real."

Four months of squalor, desperate to reach England

Ms Moseley said sanitation and food were the biggest challenges.

Many of the migrants the ABC spoke to had been there for three to four months, suggesting they were part of the flood of migrants who have been making their way to Europe from Syria, Iraq and Afghanistan.

Amanj is 33 and has come to France from Iraq. He has no wife or children and is desperate to get to England.

He thought once he got to France that he would be able to make the short distance to the UK and claim asylum.

He said language and freedom were the reasons he wanted to go to England.

A 13-year-old boy named Jamil told Reverend Crews he travelled from Afghanistan by himself and had no relatives or contacts in England.

The British government has been under pressure to accept more unaccompanied minors.

The Calais camp has always been a fraught political situation with France and Britain believing each should do more.

Millions of dollars have been spent on security including razor wire fences and a constant police presence to stop migrants making dangerous attempts to cross the Channel.

Volunteers insist they have had no problems with security or safety, but tensions are clearly rising, especially towards the media.

The ABC's rental car petrol tank was vandalised while staff were in the vehicle.

As we hear later, a Dutch camera crew had been attacked with pepper spray and a knife. Another cameraman told us he had his car windows smashed.

Despite the cold weather more migrants continue making their way towards this jump off point to England.

Their determination is not lessening. And the authorities are just as intent on stopping them.

<http://www.abc.net.au/news/2016-01-18/europe-migrant-crisis-jungle-camp-in-calais/7094406>

4. Stan Grant's speech on racism: Is this Australia's 'Martin Luther King moment'?

Sydney Morning Herald
January 24, 2016 - 12:16PM
Sarah Muller

••• **Stan Grant tells it like it is in the IQ2 Racism Debate:**
<https://www.facebook.com/ethicscentre/videos/1169353876408952/>

Indigenous journalist Stan Grant has declared racism is "killing the Australian dream", in an impassioned speech that has gone viral on social media.

The powerful speech, delivered at the IQ2 Racism Debate in October, emerged online last week, with journalist Mike Carlton describing it as a "Martin Luther King moment" on Twitter.

Declaring the Australian dream as "rooted in racism", Grant said the legacy of Australia's dark past continues today, citing the lower life expectancy and higher rates of incarceration still experienced by indigenous Australians.

"The Australian dream - we sing of it and we recite it in verse: 'Australians all let us rejoice for we are young and free'," he said.

"But my people die young in this country - we die 10 years younger than average Australians - and we are far from free."

Grant said Australians need to acknowledge the two centuries of "dispossession, injustice and suffering" faced by his ancestors.

"We are in so many respects the envy of the world," Grant said. "But I stand here with my ancestors and the view looks very different.

"Every time we are lured into the light, we are mugged by the darkness of this country's history," Grant said.

The speech was published online just a week before Australia Day, a day commonly mourned by indigenous Australians as the anniversary of the British invasion.

The Sky News journalist said he had succeeded "not because of... but in spite of the Australian dream", pinning his success on his family's hard work in the face of ostracism and discrimination.

"My grandfather, who married a white woman... lived on the fringes of town until the police came, put a gun to his head, bulldozed his tin humpy, and ran over the graves of the three children he buried there. That's the Australian dream," Grant said.

"And if the white blood in me was here tonight, my grandmother, she would tell you of how she was turned away from a hospital... because she was giving birth to the child of a black person."

Grant urged Australians to acknowledge Australia's dark past and be "better" than racism.

"Of course racism is killing the Australian dream; it is self-evident... But we are better than that," he said.

"One day I want to stand here and be able to say as proudly, and sing as loudly as anyone else in the room, 'Australians ALL let us rejoice.'"

<http://www.smh.com.au/national/stan-grants-speech-on-racism-is-this-australias-martin-luther-king-moment-20160123-gmcrgt.html>

5. Malcolm Turnbull's foreign policy hypocrisy on East Timor

Sydney Morning Herald
January 25, 2016 - 2:19AM
Tom Allard

Malcolm Turnbull's keynote speech in Washington DC last week, the first serious articulation of his foreign affairs stance since becoming prime minister, gained plenty of plaudits on both sides of the Pacific.

Turnbull was insightful and eloquent, quoting the ancient Greek historian Thucydides as he traversed the great geopolitical challenges of our times.

He was also breathtakingly hypocritical.

Musing on the rise of China, its territorial ambitions in the South China Sea and the resulting tensions with the United States and its allies, Turnbull made an impassioned plea for nation states to embrace the rules-based international order.

This order – based on the United Nations, multilateralism and respect for international law – was "possibly the biggest story of modern times". It had, he intoned, "delivered the greatest run of peace and prosperity this planet has ever known".

"Differences should be resolved by international law," he said, citing the deliberations in the Hague under the UN Convention of the Law of the Sea (UNCLOS) to settle a dispute between the Philippines and China over a 200 nautical mile portion of the South China Sea rich in oil and gas.

"We look forward, in the coming months, to learning the outcome of the tribunal's deliberations."

So far, so – apparently – uncontroversial.

Except that Australia itself does not adhere to international law when it comes to maritime boundary disputes.

In 2002, after negotiating a temporary boundary with the transitional administration in East Timor that hugely favoured Australia and placed the bulk of oil and gas reserves within its territory, Australia quietly withdrew from the jurisdiction of UNCLOS.

The reason was obvious. It had negotiated a deal with an impoverished, war-ravaged and fledgling state that was so unfair it would not stand up to challenge under international law.

If the boundary was drawn midway between East Timor and Australia – as is standard under international law – most of the oil and gas reserves would lie within Timor's territory.

During later negotiations over sharing the oil and gas reserves – worth between \$40 billion and \$100 billion – Australia infamously bugged East Timor's negotiating team. East Timor got a better deal but not anything approaching its rightful share.

East Timor is still fighting for a permanent, equidistant boundary and a better share of the oil and gas reserves. The Coalition government – despite being rebuked by the International Court of Justice for its espionage – is refusing to enter talks and won't allow the independent arbiter in the UNCLOS Tribunal make a determination.

In his speech, Turnbull chipped the US for not ratifying UNCLOS. "Non-ratification diminishes American leadership where it is most needed."

Australia may have ratified UNCLOS but it has cynically recused itself from being subject to its jurisdiction. Turnbull's reproach of the US about "diminished leadership" applies equally to Australia.

Why would China, the US or any country heed Turnbull's urgings for the potential explosive disputes in the South China Sea to be settled by international law when Australia won't do likewise?

In his Washington speech, Turnbull quoted Book 5 of Thucydides history describing how the ambassadors of the powerful city state of Athens rebuffed the leaders of the island of Melos, who wished to remain neutral in the conflict engulfing the ancient Hellenic world.

The ambassadors told the Melians that "justice is to be found only as between equals in power. As for the rest, the strong do as they will and the weak suffer as they must".

"Now, the international order, the rule of law," observed Turnbull, "seeks to ensure that that is not so, that might is not right."

Yet the ignoble treatment of East Timor since its independence means Australia is acting just like the Athenians.

For East Timor's former president and prime minister Xanana Gusmao, Australia's conduct recalls the British statesman Lord Palmerston's famous maxim "Nations have no permanent friends or allies, they only have permanent interests".

"This is the mindset of powerful nations when they deal with small countries like ours," Gusmao said last year.

To be fair, it seems Turnbull has not focused on East Timor or the maritime boundary dispute since becoming prime minister. He has had plenty on his plate. He most likely unknowingly betrayed Australia's foreign policy hypocrisy in Washington.

This year, he should switch his gaze to the near north. Turnbull has an opportunity to end Australia's diplomatic double standard and begin a meaningful negotiation with East Timor's government over the boundary.

This is in our national interest.

Australia's credibility as an advocate of a rules-based global order is at stake. So, too, is East Timor's future: its one productive oil and gas field will be all but exhausted in three years. Its sovereign wealth fund could run out in a decade

Without action, Australia may soon have a failed – and hostile – state as a neighbour.

<http://www.smh.com.au/federal-politics/political-opinion/malcolm-turnbulls-breathhtaking-foreign-policy-hypocrisy-on-east-timor-20160124-gmcz7k.html>

6. Louis A Coutts: How the High Court enabled indefinite detention

The court should reverse its decision that allows the government to indefinitely imprison people genuinely seeking asylum.

Sydney Morning Herald
January 20, 2016 - 12:00AM
Louis A Coutts

In the disaster of the detention of asylum seekers, the real cause of the problem is completely overlooked and can be traced to Australia's High Court. The extent to which the Australian Parliament can pass laws that abridge fundamental freedoms is related to the license extended to it by the High Court, which is the ultimate adjudicator of whether or not laws passed by the federal Parliament are beyond the power conferred upon it by the constitution.

The Australian constitution enshrines the doctrine of the separation of powers of the Legislative, Executive and Judicial branches of government. According to this doctrine, no branch of government can perform the functions of the other branches. This means that judicial functions can only be performed by the judiciary.

By virtue of laws of the Commonwealth Parliament, which have been upheld as valid by the High Court, all detainees in refugee detention centres are illegally in Australia and yet they have not seen the inside of any court. Until they reach Australian territorial waters, they are not in breach of any Australian law.

When they do enter Australian territorial waters as genuine asylum seekers (as most people in detention are), they have a perfect entitlement according to international law to enter a country in which they seek asylum. The consequence of their "illegality" according to Australian law is indefinite detention, which is a euphemism for what we understand as "deprivation of liberty" or, in other words "imprisonment".

The High Court has determined that imprisonment can only be imposed by a properly constituted court. How is it then that these people can be in the closest and awful detention when they have not had access to a court?

The answer is that the High Court, in a celebrated case involving a refugee named Ahmed al-Kateb (al-Kateb v Godwin), decided that detention requiring a determination of a court only applied when the detention is "punitive". In other words, for the imprisonment to require the decision of a court, it had to amount to punishment.

The court decided in the al-Kateb case that the detention was "administrative" and therefore could be imposed by the legislature and implemented by the Executive without a court determination.

The result of this is that the High Court has licensed the Australian Parliament to pass laws empowering the executive branch of government to indefinitely imprison (let us scrap the euphemism of "detention") people genuinely seeking asylum.

The Parliament and the Immigration Department have now taken advantage of this decision to embark upon a policy of inordinately delaying the processing of applications for asylum, resulting in the harshest of detention regimes. This combination of delay and harsh detention is intended to send a message to would-be asylum seekers that if they come to Australia they will be "punished" by indefinite and indecent incarceration.

A dissenting member of the High Court in the al-Kateb case found the detention in that case irreconcilable with previous decisions of the High Court, but it was reaffirmed in a later case by "Heydon J", as he was then – Justice Dyson Heydon.

He was fixated on the "illegality" of al-Kateb's entry into Australia – an entry that was supported by international treaty to which Australia is a signatory. However, once again, the High Court has had licensed the Australian Parliament to ignore its and Australia's obligation under international treaty by deciding that unless treaty obligations are specifically adopted in legislation, they have no effect on Australian law.

Some years ago a boat carrying asylum seekers was detained in international waters by Australian authorities. These asylum seekers were not in breach of Australian law and had the protection of international law. It is reported that it took a few minutes of phone calls for Australian authorities to process applications for asylum and found that none of the people qualified for asylum and were sent back.

In this context, the claim of the Immigration Department that the processing of applications for asylum is a prolonged and lengthy business lacks some credibility, but does tend to lend support to the view that detention of asylum seekers is punitive.

Hopefully, sooner rather than later the High Court will understand the awful consequences of a questionable decision and withdraw the license it has extended to the federal Parliament and the bureaucracy.

At that point, the Australian government will be forced to reconsider its policy of indefinite detention.

---->>> *Louis A. Coutts is an honorary life member of the International Commission of Jurists (Victoria), author several books and author of the soon-to-be-published paper A review of Australian anti-terrorist legislation and the rule of law.*

<http://www.smh.com.au/comment/how-the-high-court-enabled-indefinite-detention-20160119-gm90kr.html>

7. Hugh Mackay: How will history judge us for our detention policies?

Unlike the Stolen Generations and the abuse of children by priests, when historians look back on our treatment of asylum seekers they won't be able to say, "most people didn't know what was going on", writes Hugh Mackay.

ABC The Drum
By Hugh Mackay
Posted Thu 19 Feb 2015, 6:10am

In the future, when historians try to comprehend Australia's shocking asylum seeker detention policy, there's one thing they won't be able to say in our defence. Unlike the case of the Stolen Generations of Aboriginal children, or the sexual abuse of children by priests, they won't be able to say, "most people didn't know what was going on".

They won't be able to say it because it simply isn't true. Is there a single Australian who doesn't know about the impact on mental health of life in our detention centres? Does anyone not realise we have been deliberately demonising and dehumanising asylum seekers who have fled their homeland, at great personal risk, in those notorious boats? Could anyone be ignorant of the findings of the Human Rights Commission's report into the damage we are doing to children in detention?

We rise up - as we should - when Indonesia threatens to execute Australian drug traffickers. But where is our rage, our shame, in the face of a policy that, for many asylum seekers, will amount to a kind of slow death? Their eroding mental health is associated not just with the loss of freedom, not just with the privations of a quasi-prison, but also with the rising sense of despair as it dawns on them that our Government means it when it says "these people" will never settle in Australia.

Perhaps some of us don't grasp what's happening in the rest of the world. Perhaps we don't realise that the trickle of hapless asylum seekers coming to Australia is a mere drop in the ocean of misery that is the global refugee problem. Tens of millions of people, tonight, have nowhere to call home - at least, nowhere to call a home that is safe and secure. How can we escape our moral responsibility to respond to the cry for help from the few who have made it to our shores?

Those future historians trying to comprehend how an otherwise civilised society could so brazenly breach its human rights obligations, might phone their mates in the moral philosophy department for help. "What was their justification?" they will ask. "How did they convince the voters to support them?"

"Ah," the philosophers will reply, "they simply appealed to the murkiest and most slippery moral principle of all, and made it seem plausible."

"There was a moral principle at work here?"

"A dubious principle, but still, a principle: the end justifies the means. The very same principle used to justify torture, political assassination, bribery and corruption of all kinds. How else can you explain successive governments' argument that this was how you stop the boats? And, just like the torturers, they were able to show that it works - see for yourself!"

In an attempt to quell any moral squeamishness, governments have employed two supporting arguments. First, "we are trying to stop people drowning at sea". This is nonsense, of course: if that were the real issue, we'd have a fleet of planes and boats spotting and rescuing people from unseaworthy boats.

The second argument is a corker: "We want to discourage people smugglers." It goes without saying that we want to discourage people smugglers, but there are two quite distinct moral questions here: how do you stop people smugglers from exploiting the vulnerable? And - separate question - how do you treat people once they have arrived on our shores?

To conflate the two is either reckless or dishonest. The problem of people smuggling must be addressed by skilful diplomacy, regional co-operation, and relentless policing, not by punishing those who have already arrived in search of asylum.

There's a sting in the tail of this story. For any government with a black hole like this one at its moral heart, other moral lapses become correspondingly easier. For example, once you have implemented a policy that hits desperate refugees where it hurts most, denying them identity, dignity, freedom and hope, it becomes easier to be tough on your own poor, elderly, unemployed and marginalised. (Recognise any recent budgets in there?)

Governments that fail to provide moral leadership will inevitably lose their moral authority. And that's a loss that diminishes us all.

-->>> *Hugh Mackay is a social researcher and the author, most recently, of *The Art of Belonging* (published by Macmillan). He is a patron of the Asylum Seekers Centre.*

<http://www.abc.net.au/news/2015-02-19/mackay-how-will-history-judge-our-detention-policies/6137758>

8. Antony Loewenstein: Australia's refugee policies: a global inspiration for all the wrong reasons

Far from being an international pariah for the way it treats refugees, Australia's policies are becoming envied and copied

The Guardian
Antony Loewenstein
Monday 18 January 2016 11.28 AEDT

Australia first introduced onshore detention facilities in 1991 at Villawood in Sydney and Port Hedland in Western Australia. Mandatory detention came in 1992. Bob Hawke's government announced it was because "Australia could be on the threshold of a major wave of unauthorised boat arrivals from south-east Asia, which will severely test both our resolve and our capacity to ensure that immigration in this country is conducted within a planned and controlled framework".

More than 20 years later, the rhetoric has only worsened against the most vulnerable arriving from Syria, Afghanistan, Iraq and Sri Lanka. Policies that years ago seemed unimaginable, such as imprisoning refugees on remote Pacific islands, are the norm and blessed with bipartisan support.

The sad reality is Australia's refugee policies are envied and copied around the world, especially in Europe, now struggling to cope with a huge influx of refugees from the Middle East and Africa. Walls and fences are being built across the continent in futile attempts to keep out the unwanted. A privatised security apparatus is working to complement the real agenda. Australia is an island but it has long implemented remote detention camps with high fences and isolation for its inhabitants.

As a journalist and activist who has publicly campaigned against Canberra's asylum policies for over a decade, this brutal reality is a bitter pill. In early 2014 I called for UN sanctions against Australia for ignoring humanitarian law and willfully abusing refugees in its case both on the mainland and Nauru and Manus Island. I still hold this view but must recognise facts; the international mood in 2016 for asylum seekers is hostile. As much as I'd like to say that my homeland is a pariah on the international stage, it's simply not the case.

When Denmark recently introduced a bill to take refugees' valuable belongings in order to pay for their time in detention camps, this was remarkably similar to Australia charging asylum seekers for their stay behind bars. Either directly or indirectly, Europe is following Australia's draconian lead.

Consider the facts in Europe: after Sweden and Denmark reintroduced border controls, a borderless continent is now in serious jeopardy. The Schengen agreement – introduced in 1985 to support free movement between EEC countries – is on the verge of collapse. In early January, the European Union admitted it had relocated just 0.17% of the refugees it pledged to help four months earlier. In 2015 more than 1 million people arrived by boat in Europe.

This mirrors Australia's lacklustre efforts to resettle refugees in its onshore detention camps. Figures released by the Department of Immigration and Border Protection in December found that asylum seekers had spent an average of 445 days behind barbed wire. In both Australia and Europe there's general acceptance of these situations because those seeking asylum have been so successfully demonised as potential terrorists, suspiciously Muslim and threatening a comfortably western way of life.

Germany, a nation that took in more than 1 million refugees in 2015 despite being unprepared for the large numbers, is now facing a public backlash against Chancellor Angela Merkel's welcoming stance, leading to fear and rising far-right support. Australia has taken far fewer people with little social unrest and yet still unleashed over two decades a highly successful,

though dishonest, campaign to stigmatise boat arrivals. The result is the ability of successive Australian governments to create an environment where sexual abuse against refugees is tolerated and covered up. A politician is unlikely to lose his job over it.

Europe and Australia promote themselves as regions of openness. It's an illusion when it comes to refugee policy. Hungary's prime minister, Viktor Orban, despite his bombastic and discriminatory attitude towards refugees and Jews, is increasingly viewed across Europe as providing necessary warnings of the continent's struggles. EU officials in Brussels told the New York Times that Orban was often right but wished he hadn't couched his comments in conspiracy theories. Too few in Hungary are publicly resisting this wave of racism.

"Whenever Hungary made an argument the response was always: 'They are stupid Hungarians. They are xenophobes and Nazis,'" Zoltan Kovacs, a government spokesman, told the Times. "Suddenly, it turns out that what we said was true. The naivete of Europe is really quite stunning."

Brussels has proposed an Australian-style border force to monitor the EU's borders and deport asylum seekers. Germany and France support the move. This proves that the most powerful nations have little interest in resolving the reasons so many people are streaming into Europe (such as war and climate change) and prefer to pull up the drawbridge. Former Australian prime minister Tony Abbott encouraged Europe to turn back the refugee boats and it seems Brussels is listening. Europe is also copying Australia's stance of privatising the detention centres for refugees.

None of this worries Rupert Murdoch's Australian. In light of the New Year's Eve sex attacks in Cologne, the paper editorialised in early 2016 that Europe must avoid "reckless idealism" and embrace an "enlightened world" where gender equality is accepted by all. The outlet has not expressed similar outrage with the immigration department's blatant disregard for refugee lives. It's also unclear how pushing for military action in Iraq, Syria, Libya, Afghanistan and other Muslim nations, pushed by the paper for years, contributes to an "enlightened world".

It's comforting to think of Australia as a global pariah on the world stage, pursuing racist policies against asylum seekers from war-torn nations. But it's untrue. Canberra's militarised "solution" to refugees is admired in many parts of Europe because it represents an ideology far easier to process and sell than identifying and adapting to changing global migration patterns.

None of this should stop activists fighting for a more just outcome, in both Australia and Europe, but today it's more likely European officials will ask Australian officials for advice on how to "stop the boats" than chastise it for mistreating a raped refugee.

Australia has become an inspiration for all the wrong reasons.

<http://www.theguardian.com/commentisfree/2016/jan/18/australias-refugee-policies-a-global-inspiration-for-all-the-wrong-reasons>

9. Robert Manne: Resettlement is the way out of detention mess

Australia's clash of ideologies is destroying the lives of the people being held in offshore detention.

Sydney Morning Herald
January 19, 2016 - 12:00AM
Robert Manne

On Saturday, in the report on the frequent occurrence of dreadful acts of self-harm among the asylum seekers marooned on Australia's two offshore processing centres, Fairfax Media documented what has long been obvious to common sense. The 1500 or so fellow human beings we have sent to Nauru or Manus Island, most for two years or more, are in the grip of an almost unimaginable despair.

As in my opinion and experience, most Australians would not inflict grievous suffering on innocent human beings for no reason, what needs to be explained is why as a people we are willing, in full knowledge of the facts, to refuse to settle these people in Australia and to tolerate their destruction in body and in spirit.

The principal answer is surprisingly straightforward. Between 2009 and 2013, 50,000 asylum seekers arrived on Australian shores by boat. On their way to Australia another thousand drowned. Officials in Canberra, both major political parties and the overwhelming majority of the Australian people, believe the sacrifice of those now on Nauru and Manus Island is justified in order to prevent a return of the boats. What is so terrible is that the logic underlying this argument is so easily shown to be false.

Under the Howard government between 2001 and 2007 two policies – offshore processing and tow-back where feasible to Indonesia – effectively stopped the boats. Eventually, however, most of those sent to Nauru or Manus Island were gradually and quietly settled, some in New Zealand, most in Australia. No one argued that with re-settlement the boats would return.

This was correct. Before 2007 virtually no asylum seeker boats set out for Australia.

In July 2013, during his brief second prime ministership, Kevin Rudd introduced a new deterrent policy. Not only would all asylum seekers who reached Australia by boat now be sent to the offshore processing camps that had been re-opened under Julia Gillard: no one sent to one of these camps would ever be settled in Australia.

Rudd made this pledge for purely political reasons. As Labor was not yet ready to embrace the Coalition's turnback policy, he thought he needed some measure that would blunt the edge of Tony Abbott's attack on Labor for its asylum seeker policy failure.

Rudd's additional deterrent measure did not help Labor's cause. It did, however, mean that when the new government came to power, Abbott predictably and painlessly added Rudd's initiative – no settlement, ever, in Australia of asylum seekers sent to Nauru or Manus Island – to the two successful deterrent measures introduced by Howard: offshore processing and turnback.

It is the bipartisan embrace of the Rudd initiative that is responsible for the present plight of the people on Nauru and Manus Island.

As the experience of the Howard government should have shown, the element Rudd added to Australia's asylum seeker deterrent policy was entirely unnecessary. People smugglers need a product to sell. Under Howard the threat of turnback and, if that failed, transfer to an offshore processing camp, killed the market stone dead. It would almost certainly do so again. Who, after all, would be willing to spend several thousand dollars when the overwhelming most likely prospect is interception by the Australian navy and return to point of departure or, in the unlikely event of naval failure or political difficulty, a prolonged period of detention in an offshore processing camp?

The current cruelty being inflicted on the asylum seekers languishing on Nauru and Manus Island will not be overcome while the two mindsets that at present dominate the national discussion of asylum seekers persist.

Supporters of asylum seekers hope that with inspirational political leadership, or a national moral awakening, Australia will abandon the policies of offshore processing and turnback, and that somehow an alternative policy will be discovered that will prevent asylum seeker boats setting out for Australia.

Supporters of current policy are convinced that if Canberra blinks and the slightest softening of the three-pronged border protection policy occurs, the people smugglers will be back in business.

Both these mindsets are mistaken. It is clear that for the foreseeable future no Australian government will return to the kind of policies that saw the arrival of 50,000 asylum seekers during the Rudd and Gillard years.

Equally, the belief that the asylum seeker boats will return if Canberra softens any element of present policy flies in the face both of historical evidence and of reason.

But while these mindsets dominate our asylum seeker debate, the lives of the refugees on Nauru and Manus Island will continue to be slowly destroyed.

To save the 1500, compromise between the supporters of the asylum seekers and the supporters of current policy is now desperately needed. In practical terms, this will involve both gradual re-settlement in Australia of those now on Nauru and Manus Island, and the retention of turnback and the mothballing rather than the closing of the offshore processing centres.

In ideological terms it will involve something even more difficult to imagine: a rhetorical truce between the entrenched camps of Australia's bitter, 15-year-old asylum seeker culture war.

---->>>> *Robert Manne is Emeritus Professor of Politics and Vice-Chancellor's Fellow at La Trobe University.*

<http://www.smh.com.au/comment/we-need-a-moral-awakening-towards-asylum-seekers-20160117-gm7zvx.html>

10. Australia's offshore detention damages asylum seekers because it's supposed to

Healthcare on Nauru and Manus comes a distant third to deterrence and profit, experts argue, which puts doctors asked to work there in an impossible position

The Guardian
Ben Doherty
Tuesday 19 January 2016 07.43 AEDT

“Abyan”, “Golestan”, “Nazanin”. These people are unknown to us, save for the single pseudonyms with which they've been appellated.

Hamid Kehzaei's name we at least know, even if we know little about the life he led before he came to be within the bailiwick of Australia's offshore detention regime, under the care of which he would die.

We know, too, Reza Barati's name and history. Onshore, we know about Mohammad Nasim Najafi and Fazel Chegeni. Because they died in detention, too.

But of those still within Australia's arcane immigration detention regime, much less is known. Secrecy is a cornerstone of the regime.

Access to Papua New Guinea's Manus facility is routinely denied. The government in Nauru (with one infamous exception) refuses visas to all independent journalists to even visit the country. Communications with people held in detention without charge is heavily restricted, and closely monitored.

The people who work in those detention centres face prison if they speak out about the abuses they see.

But despite this cultivated concealment, the failures in Australia's care are known: beyond the deaths, the systemic abuse; the instances of rape and sexual predation; the violence by guards; the corporal punishment; the deprivations; the delays in moving acutely ill people to appropriate care; the dereliction of police investigations and prosecutions.

All have been comprehensively documented, by the media, in parliamentary inquiries and in government reports.

Invariably, when people are assaulted, or raped, or die, the problems are explained as tragic accidents, aberrant "terrible incidents", or breakdowns in operating procedures.

But many of the medical professionals who work within this system have told Guardian Australia that they do not believe the damage to asylum seekers and refugees held is accidental or an unhappy, unintended side-effect of detention.

They argue that the detention centres are "designed to damage" people, and that the illnesses, injuries, and deaths are the predictable, expected outcomes of the regime.

Detention damages people because it is supposed to.

Guardian Australia has spoken with more than a dozen doctors and medical professionals who have worked in immigration detention offshore and within Australia. Many would only speak anonymously, because of continuing employment within immigration or fears of prosecution.

Two key themes emerged from almost every interview: that immigration detention is designed to harm people held within it, and; that secrecy is paramount.

In a peer-reviewed paper published in the BMJ's Journal of Medical Ethics in December, Dr David Isaacs asked: "Are healthcare professionals working in Australia's immigration detention centres condoning torture?"

Isaacs, who worked as a doctor on Nauru, argued that Australia's offshore detention centres – built in remote places offshore, secretive, and inaccessible – were "reminiscent of Guantanamo Bay".

"The offshore detention centres used by Australia are clearly 'black sites'."

"Secrecy, which characterises recent Australian government policy on people seeking asylum, itself creates ethical issues for healthcare professionals. If they speak up to expose harms to health caused by immigration detention, they will no longer be employed and thus unable to directly improve patient health. They may even face imprisonment."

"Each individual practitioner faces the moral dilemma of whether to work in immigration detention at all and effectively condone what amounts to torture, and if they do work there, they must decide for how long and to what extent they report on harms."

Dr Peter Young, who was formerly the director of mental health services at International Health and Medical Services (IHMS) – the company contracted to provide medical services to people in immigration detention within Australia and offshore – says detention is designed to be "an aversive experience for people", a regime akin to torture.

Full story at <http://www.theguardian.com/australia-news/2016/jan/19/australias-offshore-detention-damages-asylum-seekers-because-its-supposed-to>

11. Australia's harshest detention centre revealed

Sydney Morning Herald

January 21, 2016 - 6:19PM

Nicole Hasham, Inga Ting, Sarah Muller, Bianca Hall

Article includes graphics:

<http://www.smh.com.au/federal-politics/political-news/australias-harshest-detention-centre-revealed-20160121-gmapbd.html>

Melbourne's Maribyrnong detention centre is the harshest in Australia, according to figures that show guards restrain and handcuff asylum seekers or deploy other force at a rate far outstripping other facilities.

In one incident in April last year, a detainee who was acting aggressively was restrained using a controversial arm lock, prompting him to yell: "F**k off, I am not in a prison."

The Department of Immigration and Border Protection said some centres hold more detainees with criminal histories than others, requiring more frequent use of force. However, refugee advocates say this leaves vulnerable asylum seekers in those centres at even greater risk of harm.

Data obtained using freedom of information laws show in the year to July 2015 there were 958 "use of force" incidents at the Maribyrnong centre, a facility in the Melbourne suburb of Maidstone that holds adult men and women.

This was almost twice the 523 such incidents at Sydney's Villawood centre and almost triple the 350 incidents at Western Australia's Yongah Hill facility.

This is despite Maribyrnong's detainee population in July last year standing at just 137 - far lower than Villawood at 375 and Yongah Hill at 390.

The data also shows increasing use of force across the network, rising from 45 to 106 incidents a week in the year to July.

Many use-of-force incidents are pre-planned, which the Department of Immigration and Border Protection says involves "minimal" use of force when moving risky detainees, for safety reasons.

It includes the use of "mechanical restraints" such as handcuffs, and a controversial arm lock known as an "enhanced escort position".

In incidents at Maribyrnong in May last year, a female detainee was restrained after trying to disrupt a search of her room, while guards used force to "de-escalate and control a non-compliant male detainee". Force was also used that month to stop detainees injuring each other and causing damage.

In other incidents, force was used when escorting detainees outside the centre or transferring them to another facility.

Force has also been used at Maribyrnong to pacify detainees as they take medication, or simply to move them around the facility, including into isolation or observation rooms.

Following the period covered by the figures, the Australian Border Force took control of onshore detention and brought in a "command and control" regime that has allegedly led to even tighter security in centres, including the handcuffing of physically and mentally ill detainees during external visits to doctors.

Maribyrnong houses non-citizens due for deportation because of criminal convictions, as well as asylum seekers.

Refugee advocates expressed deep concern for asylum seekers housed there, and say vulnerable people are often forced to share rooms with convicted criminals.

"It's got much more a feeling of prison than other centres, and the people who are detained there are much more of a mixture too," Brigidine Asylum Seekers Project co-founder Sister Brigid Arthur said.

Asylum Seeker Resource Centre detention rights advocate Pamela Curr said she knew of one young asylum seeker woman who had been sent to hospital for an operation from Maribyrnong, and had been handcuffed to her hospital bed for two days.

A department spokesman said some detention centres house more detainees with violent and criminal histories, which "may result in local variations in the level of force required to maintain order". He described comparisons between centres as "naive".

The data, obtained by the University of Melbourne's Law Students for Refugees in conjunction with Fairfax Media, also reveals that self-harm attempts are highest in the Wickham Point centre near Darwin, where there were 97 incidents in a year.

This was closely followed by 95 self-harm incidents at Christmas Island's North West Point facility.

Assaults are most common on asylum seekers living in the community. Victoria had the highest number of incidents - 76 over the year or one every five days, on average - followed by NSW, with 64 over the year or one every six days.

<http://www.smh.com.au/federal-politics/political-news/australias-harsh-detention-centre-revealed-20160121-gmapbd.html>

12. Julie Wark - Nauru: What Reality is This?

Counterpunch
by Julie Wark
January 22, 2016

I don't have words for this. For what is happening on Nauru. Nauru, this blighted rock, this ecological and political catastrophe, is a microcosm of the whole world. What is happening there is really what is happening everywhere. I don't know how to draw out the dark, dramatic reality by making an adequate call of the political order because it is truly unspeakable. Still, I want to bring out a glimpse of what is happening to humanity by trying to dig out the dark madness of a rock in the Pacific which was once known as Pleasant Island.

"What kind of people are these?" asked a refugee boy who was beaten up by Nauruans, denizens of an island which makes a living from the refugee business. The underlying mood of his question addresses people like the Nobel Peace laureate Barack Obama who, in 2015 alone, oversaw the dropping of 23,144-bombs on Muslim majority countries in a war against something named "terror". Originally called a humanitarian intervention, this orgy of bombs had created some sixty million refugees and internally displaced people by 2014. It's hard enough to get your head around the sleight of hand between beneficence and terror, or the Nobel laureate's facile tears for victims of America's gun laws but not for those of its bombs. But where are the words to describe the individual and collective pain of sixty million people? The loss of relatives, loved ones, human rights, freedom and dignity? What about the deep and long-lasting effects on mental health, especially among children?

Our hearts might break, just thinking about it. But the perpetrators don't worry about that. They have a simple solution: blame and punish the victims. Nauru is an isolated island but not an isolated case. If I seem to be picking on Australia and its hell-hole of a concentration camp of Nauru, it's only because it's so representative of what is happening on a worldwide scale, of something putrid at the heart of humanity, the same humanity that produced a Universal Declaration of Human Rights affirming in its Article 14 that "everyone has the right to seek and to enjoy in other countries asylum from persecution."

Full story at <http://www.counterpunch.org/2016/01/22/nauru-what-reality-is-this/>

13. Leading Australian doctor challenges Malcolm Turnbull, Bill Shorten over 'torture-like conditions' at detention centres

ABC News Online
Exclusive by medical reporter Sophie Scott and Natasha Robinson
First posted Tue 26 Jan 2016, 3:09am
Updated Tue 26 Jan 2016, 5:19am

One of Australia's leading doctors has challenged the Prime Minister to prosecute him for speaking out about what he calls "torture-like conditions" in offshore detention centres.

Professor David Isaacs has been an outspoken critic of the centres, but under the Border Force Act, contractors working in immigration detention — including doctors and aid workers — face two years' imprisonment for revealing details of what happens in detention centres.

The paediatrician visited Nauru in December 2014.

Professor Isaacs said he had now written to Prime Minister Malcolm Turnbull, Immigration Minister Peter Dutton and Labor leader Bill Shorten challenging them to prosecute him under the Act, or to repeal the legislation.

"Long-term immigration detention causes major mental health problems, is illegal in international law and arguably fits the recognised definition of torture," Professor Isaacs said.

"The conditions we witnessed typified those in institutions such as asylums, prisons and concentration camps.

"There was constant bullying and humiliation, and children and adults coming to the medical centre were referred to by their boat numbers."

Professor Isaacs recently published a paper in the Journal of Medical Ethics detailing his experience.

"The average length of detention of the children and families was 14 months and they were still not told when applications for asylum would be processed," he wrote.

"Doctors and nurses have a moral duty both to serve and to speak out."

According to The Forgotten Children report by the Australian Human Rights Commission and released in 2015, the number of children in detention dropped in the period July 2013 to January 2014 — but the length of detention increased.

Statistics from the Department of Immigration show that the average length of detention for asylum seekers has increased dramatically since September 2013, with the average length more than 410 days.

68 children in offshore detention on Nauru, 79 on mainland

The number of children in offshore detention has dropped from a high of about 1,700 when the Coalition took government.

Latest figures show 68 children are in offshore detention on Nauru, and there are reportedly 79 in detention on the mainland.

Last week, Mr Dutton announced 72 children would be returned to immigration detention on Nauru within weeks.

Claire Hammerton from the organisation ChilOut, which lobbies for children to be taken out of detention, said the trauma for families caught in the system remained intense.

There is a pending High Court judgment that will decide the legality of offshore detention on Nauru.

Australian Human Rights president Gillian Triggs said she was deeply unimpressed at the suggestion of sending scores of children back to Nauru.

"My primary response is one of considerable disappointment," Ms Triggs said.

"The children have been transferred from Nauru to Australia for medical reasons, and they are frankly in despair at the prospect of returning to the conditions and circumstances of their detention in Nauru."

Mr Dutton did not respond to the ABC's inquiries regarding Professor Isaacs' letter.

<http://www.abc.net.au/news/2016-01-26/doctor-challenges-pm-over-immigration-detention-centres/7113966>

14. NSW Premier Mike Baird, in Australia Day address, says doors must open to refugees

ABC News Online
Posted Fri 22 Jan 2016, 6:58pm

New South Wales Premier Mike Baird says Australia has reached a fork in the road in its refugee policy and will be denying its history if it closes the door on new arrivals.

In an Australia Day address given on Friday, Mr Baird warned of the dangers of what he called anti-immigration politics in Australia and around the world.

He said the country owed much of its success to migrants, and he feared what would happen if refugees were turned away.

"We are one of the most successful and multicultural nations in the world," Mr Baird said.

"But I believe we are potentially at risk of losing what makes Australia the best place in the world to live, because some want to shut our doors and avert their eyes."

In his speech, Mr Baird spoke of Deng Thiak Adut, a former child soldier in Sudan who is now a refugee lawyer in Australia.

"What an amazing country we are part of," he said.

"Because we welcomed Deng, we sheltered him, we gave him clothes, food and a chance to learn, and he seized that opportunity, and now he is working in his community giving back to those who, like him, once had no voice."

The Premier said Australia owed a large part of its character to the success of people like Mr Adut.

"And to our kindness, compassion in sharing our luck and giving them a chance," he said.

"Deng is what happens when generosity meets opportunity."

"When listening yesterday, you could hear pride in his words and he reminded us poignantly that in our national anthem are the words: 'For those [who've] come across the seas, we've boundless plains to share'."

Mr Baird said as he was listening to Mr Adut deliver his address he felt proud, but also fearful.

"My genuine and honest fear is what will happen to Australia if shut people such as Deng out, whether it be out of fear or ignorance."

The Premier said Australia must face threats and arm its security forces to protect the borders appropriately.

"But we must not lose sight of who we are that makes us so great," he said.

"I say we have a choice: We can continue on the path that brought this nation to where we are today, or we can let fear blind us and fear infect us.

"To shut our doors to refugees, as many here and around the world are calling for, is to deny our history, to deny our character.

"In a quest for personal comfort let us not sacrifice who we are above all, which is welcoming, compassionate and inclusive."

<http://www.abc.net.au/news/2016-01-22/nsw-premier-mike-baird-australia-day-address-welcome-refugees/7108912>

15. Labor MP Melissa Parke, fierce critic of offshore detention, won't recontest seat

Labor leader Bill Shorten praises Fremantle MP who opposed laws increasing the powers of security agencies in the name of counter-terrorism

The Guardian
Daniel Hurst Political correspondent
Friday 22 January 2016 18.20 AEDT

One of the Australian Labor party's most outspoken opponents of offshore detention, mass surveillance and live animal exports will not contest the next federal election.

Melissa Parke, who has represented the West Australian seat of Fremantle since 2007, said she would not seek a fourth term because it was "time for me to be closer to my family and to travel less".

"I believe that renewal is a good tonic for our democracy," she said on Friday.

Parke, a former UN lawyer, has been a frequent critic of the positions adopted by Australia's main political parties on asylum seeker policy and laws increasing the powers of security agencies in the name of counter-terrorism.

Three months ago, she renewed calls for Labor to drop its support for the processing of asylum seekers on Nauru and Manus Island. In an opinion piece for Guardian Australia, Parke argued a properly resourced regional arrangement would be better than maintaining "the convenient lie that our Pacific gulags are hard but necessary".

In 2014, Parke was the sole voice of major party dissent during lower house debate on a bill to increase the power of security agencies. She warned that encroaching on the privacy of citizens "might in fact wear and fray the fabric of our freedom, trust and faith in government".

In the statement on her future, Parke said the role of an informed and engaged backbencher was "undervalued in the Australian political system, which increasingly favours the executive over the parliament".

"It has been a pleasure to work with parliamentary colleagues, academics, scientists, experts, industry, unions and community groups on issues such as abolition of the death penalty, justice for refugees, nuclear disarmament, marine sanctuaries, climate change, press freedom, fair trade, closing the gap, war powers reform, Australian aid, early childhood education, public health, rare diseases, medicinal cannabis, dying with dignity, support for veterans, whistleblower protection, an independent office of animal welfare, an end to gene patenting, and long-overdue justice for the Palestinian, Tibetan, West Papuan and Rohingya peoples," she said.

The Labor leader, Bill Shorten, said Parke had been "an unstinting champion for human rights, international development and social justice".

"In the caucus and the parliament alike, Melissa has always stood up and spoken out for her beliefs, with an eloquence and fearless passion drawn from a deep well of integrity," he said.

"For every minute of her time as a federal MP, she has been true to herself."

The former speaker Anna Burke, another outspoken critic of Labor's refugee policies, announced last month she would not recontest her Victorian seat at the next election.

Burke and Parke said they would continue to work for the election of a Shorten-led Labor government at this year's election.

<http://www.theguardian.com/australia-news/2016/jan/22/labor-mp-melissa-parke-fierce-critic-of-offshore-detention-wont-recontest-seat>

16. Asylum seekers start knitting project to donate clothes, toys to Australian charities

Detainees held at Darwin's Wickham Point centre say they want to 'contribute to society' as they wait for visas to be processed

The Guardian
Helen Davidson in Darwin
Wednesday 20 January 2016 13.37 AEDT

Asylum seekers detained at an onshore detention centre are knitting clothes and toys to donate to Australian charities, as part of a project they hope will also improve the mental health of detainees.

The asylum seekers, held at Darwin's Wickham Point detention centre, have begun using allotted activity time of about one to two hours a day to make quilts, children's clothes and toys for Australian charities.

"In this lengthy visa-processing period we have no freedom but we want to devote our skills to contribute to society," said detainee Gan Mei Wah, the project's organiser.

"It also is good thing to do for our life [while we] stay in detention. Most of us have spent over two years in detention.

"We have many people very good at crocheting, knitting and sewing especially, and have a lot of 'blank' time. We hope can give away the stuff we made for older people and kids and let them know they're not alone. We also feel happy for that."

Gan said the group had contacted a number of Australian charities offering their craftwork but were also seeking donations of fabric, wool and a couple of machines to make more.

After Gan requested more time and equipment to work on the project, the detention centre operator Serco expanded the knitting program and bought an extra 15 machines, a spokesman for the Department of Immigration and Border Protection said, speaking also on behalf of Serco.

"The department looks forward to continuing to work with Serco and the local Darwin community to expand opportunities for detainees to participate in activities of this type," he said.

Richard Hearn, the chief executive of Resthaven, a South Australian aged care provider approached by the detainees to receive the gifts, said he applauded the group for the initiative "to use time spent in detention to make items that are of benefit to people in need".

"I am sure that the items made by Mei and others would be very much appreciated," he said.

The executive officer of the Perth Ronald McDonald House, Peter King, said while he wouldn't comment on the specific project "it's great to see people from all areas of the community wanting to provide for those that are in need".

"We often receive donations from groups within the community, where a lot of love and attentions been put into the production of things to give out to the families of the kids, and we appreciate those efforts they've put in," he said.

Due to a large donation received at Christmas, the Perth organisation did not accept the offer but he said that did not mean they would not in future.

Gan said she hoped other detainees would join the project.

"Life in detention can be tough and difficult due to the uncertainty and lengthy process," she said.

She said her friend and project coworker had been in detention in Indonesia and Australia for six years and had become extremely mentally ill.

"In such circumstances, people will be easily crushed and lost," she said.

“But we really don’t want to be a negative image for society or made government do something for us. Especially [as] this is 2016, another new year. Harming ourselves and suicide is not a solution. We have to look at the whole world and the people outside might need more than us.”

Gan, who has been detained with her husband for almost two years, said she had seen “many ugly [things] happen”.

The detention centre has had a number of disturbances in the past year and there have been numerous cases of self-harm, possible suicide attempts and hunger strikes among the detainees.

Gan and her husband, who say they fled Malaysia in 2009 after loan sharks threatened their lives, have had their refugee claims rejected. The couple have appealed.

<http://www.theguardian.com/australia-news/2016/jan/20/asylum-seekers-start-knitting-project-to-donate-clothes-toys-to-australian-charities>

17. Turnbull urged to allow New Zealand to resettle refugees held on Nauru

In an open letter from refugees living in Australian-run detention on Nauru, signatories promise not to use potential New Zealand citizenship to get to Australia

The Guardian
Helen Davidson
Tuesday 19 January 2016 17.40 AEDT

Malcolm Turnbull has been urged to show he is different from his predecessor and allow New Zealand to resettle refugees from the Australian-run immigration detention, in an open letter from refugees living on Nauru.

The signatories, who also penned a request to the New Zealand government earlier this month, promised they would not use potential New Zealand citizenship to get to Australia, a country they no longer believe cares about human rights.

In 2013 the New Zealand prime minister, John Key, and his then counterpart Julia Gillard struck a deal for New Zealand to resettle 150 people a year from Manus Island or Nauru immigration detention, but it was effectively scrapped by Tony Abbott after he won the federal election later that year.

“Now we are turning to you because it is said we cannot go to New Zealand because your government scrapped the deal,” the refugees wrote to the Australian prime minister this week.

“This is your chance to act now and put us out of this misery. Please talk to the New Zealand government and allow them to take us.”

In response to the first letter, the New Zealand immigration minister, Michael Woodhouse, told Guardian Australia the offer technically remained on the table as part of government policy, if Australia decided to take it up.

The latest correspondence from the refugees, who have been found to have legitimate claims of asylum and had been granted refugee status, urges Turnbull to demonstrate he is “different” to his predecessor.

Turnbull has said resettlement in New Zealand would be an incentive for asylum seekers to board boats. After five years in the country a refugee can apply to become a New Zealand citizen, granting them work and travel rights in Australia.

The refugees claim that will not happen.

“If we were settled in a country like New Zealand which respects human rights and allowed us to build up a future there, why would we want to uproot ourselves again to come to Australia,” the letter says.

Despite their refugee status they are only able to remain on Nauru temporarily and must find a third country to take them.

The office of the prime minister has been contacted for comment.

One of the letter’s signatories told Guardian Australia the group of refugees had no interest in coming to Australia anymore. “They do not trust Australian government because they have heard many lies from them,” said the man, known as Mehdi.

He said those who procured travel documents after getting refugee status feared the documents were illegitimate and were a “game” provided only in response to international pressure over Australia’s offshore detention network.

More than 800 people have been found to be refugees on Nauru and are living either in the detention centre or in the Nauruan community. Another 543, including 70 children, are awaiting their determinations.

A number of incidents have indicated serious concerns with the arrangement, including alleged assaults of refugees and asylum seekers by Nauruans and other refugees. No one has ever been charged.

Documents from the International Health and Medical Service, the company contracted to run health services in detention, reveal the extent of the serious mental health crisis among detainees. Among the documents is data which shows that the percentage of children's presentations to a doctor which then result in a mental health diagnosis have double in the past year.

"The one thing we are losing easily is our mental state," said Mehdi. "[It] is something that cannot be restored easily and its impact can be permanent. When you don't have a proper mental state there is no difference between heaven and hell."

<http://www.theguardian.com/australia-news/2016/jan/19/turnbull-urged-allow-new-zealand-to-resettle-refugees-on-nauru>

18. Manus Island residents air grievances about hosting Australian detention centre

About 1,000 people gather in Lorengau to air grievances about how promised benefits for hosting Australia's immigration detention regime have not been seen

The Guardian
Helen Davidson
Friday 22 January 2016 19.20 AEDT

Manus Island residents say the benefits promised by the Australian government in return for hosting its immigration centre in their province have not been delivered.

On Friday about 1,000 people gathered in Lorengau for a community forum to air their grievances about the controversial regional processing centre (RPC) which operates at Lombrum, about 25km out of town.

Despite the 2013 Rudd government agreement with Papua New Guinea bringing economic benefits and an increase in jobs for the region, tensions have remained strained in the province, and in Lorengau in particular.

As part of the deal, Australia agreed to provide \$420m in aid to PNG; Manus province receives \$37m.

"The benefits for Manus are not sufficient, they are very small compared to the amount of money given to other projects around the country," general secretary of the Manus Development Forum, Ben Pokarup, told Guardian Australia.

Inconsistent pay and a lack of higher-level jobs for locals at the regional processing centre (RPC), construction contracts not going to local businesses, and deteriorating roads were also raised.

"There are supervisory roles that can be executed by Manus locals at the centre, but Australians are taking it and doing it," Pokarup said. "And the salary and wages, they are inconsistent. Their rate per hour is not up to what they expected. They are not getting benefits they are suppose to get as workers in the RPC."

Pokarup said the funding dedicated specifically to the region within the \$420m agreement was too small, and he accused 2013 negotiators of ignoring the community.

Local MP Ronnie Knight said the forum was an opportunity for people to air their concerns about what was happening "locally, politically, and economically" and to discuss the behaviour of expat employees of the centre when they were in the PNG community.

A 2014 economic report found the centre and related construction had resulted in a 70% increase in formal employment in the Manus economy and a 25% increase in employment by local businesses.

However that same year an Australian Senate report into disturbances at the centre found that as early as 2012, it was clear tensions were growing due to poor communication between the two governments and locals, leading to a blockade of the airport and main road.

The report also described a number of violent incidents both inside and around the centre which also served to escalate the situation.

In 2014, relatives of two local men killed by PNG's notorious police mobile squad blamed the presence of the detention centre because the squad was subsidised by the Australian government.

Local police and politicians have criticised the centre operators and the Australian government over at least two incidents involving Australian employees allegedly committing crimes but being flown home before they could face authorities. The incidents prompted accusations of a cover-up.

In July, three Australian men were accused of drugging and raping a Papua New Guinean colleague.

The men, employees of Wilson Security at the RPC were flown to Australia and despite assurances from the then prime minister, Tony Abbott, that Australia would cooperate with authorities, they have not been returned to PNG for questioning.

In December an Australian employed by Wilson Security was alleged to have robbed a local bar and then caused a traffic accident. He was returned to Australia “based on medical advice and compassionate grounds,” the immigration department told Guardian Australia.

In both circumstances the department said repatriations were done with the full knowledge and consent of PNG police – something PNG police refuted.

The incidents were raised again at Friday’s forum.

“They said the three Australians would be back here to answer in court,” said Pokarup. “They were asked not to leave the country and then they left the country.”

Pokarup said representatives from the Australian and PNG immigration departments and the RPC were all invited to attend the forum, but did not show up.

“I told the people it was up to them to draw conclusions. There’s a clear picture that the people are not satisfied,” said Pokarup.

“It’s very sad and upsetting to people at Manus that the people who have to answer the questions didn’t come.”

The Department of Immigration and Border Protection has been contacted for comment.

<http://www.theguardian.com/australia-news/2016/jan/22/manus-island-residents-air-grievances-about-hosting-australian-detention-centre>

19. Reza Barati witness on Manus warned: ‘It’s very easy to kill you’

The key witness in the Reza Barati murder trial remains on Manus Island, frightened for his life and receiving death threats from the guards against whom he has testified.

The Saturday Paper
Jan 23, 2016
Di Cousens

I don’t have the first message Behnam Satah sent to me. Facebook deleted his account and it was lost. I know that it was from October last year. Behnam had already been persuaded to give evidence in the case.

Behnam Satah is an Iranian Kurd who witnessed the murder of Reza Barati on Manus Island on the night of February 17, 2014. When he sent his Facebook friend request, he was the key prosecution witness in the case against two Papua New Guinean men accused of killing Barati. He still is.

In any ordinary situation, Behnam would have been taken from detention on Manus Island and placed somewhere safe – ideally in Australia. But after almost two years, he is still locked on Manus, under the care of the guards against whose colleagues he is testifying. These men have threatened to kill him.

“Every day guards sit outside my window for a couple of hours and stare at me,” he tells me from his new Facebook account. “They swear at me and say, ‘Go back to your country.’”

He lives in constant fear, awake all night and trying to sleep in the heat of the day. “No one can ever imagine how it feels to think every time that someone might kill you. Every second I have to be alert at nights. When someone passes here I have to be prepared.”

Behnam began a hunger strike in January last year and after three days of not eating collapsed. He was taken to the medical facility in Manus and put on a drip. “I was receiving a drip,” he says. “Then ERT [emergency response team] came and they spoke with the doctors. My drip hadn’t finished and the doctor took out the needle and said, ‘Go and sit on that chair.’”

Behnam was then arrested and after a night in the police lock-up was taken to the Corrective Institutions Service prison, known as CIS. He was kept there for 21 days. During that time the two accused, Joshua Kaluvia and Louie Efi, were also in the prison.

Full story at <https://www.thesaturdaypaper.com.au/news/politics/2016/01/23/reza-barati-witness-manus-warned-its-very-easy-kill-you/14534676002802>

20. Tim Wilson: government should apologise over sacked Nauru Save the Children staff

Human rights commissioner calls for 'someone ... to do the decent and appropriate thing' after independent report finds nine staff were unfairly fired

The Guardian

Daniel Hurst Political correspondent

Wednesday 20 January 2016 18.23 AEDT

The human rights commissioner, Tim Wilson, has called on the federal government to apologise to Save the Children for its handling of accusations about the charity's workers "coaching" asylum seekers to self-harm on Nauru.

A review by the former chief executive of the high court, Christopher Doogan, found there was "no evidence nor reliable information" to justify the summary removal of nine Save the Children staff from the island in October 2014.

A tenth staff member resigned before the removal directive was issued by the government. The review report, released in a heavily redacted form on Friday, also called on the government to begin compensation talks with the staff.

The then immigration minister, Scott Morrison, said at the time he had received information indicating "that there may have been a level of coaching and facilitation and coordination amongst people who are working for one of our service providers".

Wilson, whose appointment to the Human Rights Commission attracted criticism because of his Liberal party links, said the government should now say sorry.

"Someone within government needs to do the decent and appropriate thing and apologise," he told Sky News on Wednesday.

"I think it's the appropriate, respectful and decent thing to do."

Wilson said the government should "recognise that the facts they were provided with at the time perhaps were wrong" and apologise to "close this chapter so the debates and issues can go on".

He also raised broader concerns about the secrecy surrounding the running of immigration detention centres and called for greater oversight.

"Independent and credible oversight of these detention centres is in everybody's interests," Wilson said.

Comment is being sought from the immigration minister, Peter Dutton.

Morrison declined to apologise in March 2015 when an earlier report he commissioned, the Moss review, found a lack of evidence that contract service providers on Nauru had facilitated protest activity, encouraged self-harm or fabricated assault allegations.

When asked directly if he would apologise to Save the Children, Morrison said: "Well, I made no allegations, I referred allegations for a proper inquiry."

In a press conference in October 2014 announcing the Moss review, Morrison said: "Making false claims and worse – allegedly coaching self-harm and using children in protests – is also completely unacceptable, whatever their political views or whatever their agendas."

Morrison's announcement came hours after the Daily Telegraph reported the coaching allegations under the headline "Truth overboard". The reviews found Transfield Services prepared an intelligence report on 30 September 2014 saying it was "probable that there is a degree of internal and external coaching, and encouragement, to achieve evacuation to Australia through self-harm actions".

But the Doogan report said the original email naming the 10 Save the Children staff members stated there was no firm evidence of involvement at that stage.

Doogan suggested that the contractor staff on Nauru "were being pushed to provide names and information to support what was perceived in Canberra to be [Save the Children] staff providing inappropriate support or assistance to transferees in various ways".

"As will become clear from the following outline, there was in fact no evidence nor reliable information on which to specifically name nine of the 10 [Save the Children] staff," the report said.

<http://www.theguardian.com/australia-news/2016/jan/20/tim-wilson-government-should-apologise-over-sacked-nauru-save-the-children-staff>

21. Scott Morrison won't apologise after claims detainees coached to self-harm

Former immigration minister says Doogan review's finding of 'no evidence' to justify removal of nine staff from Nauru a matter for Peter Dutton

The Guardian

Daniel Hurst Political correspondent

Friday 22 January 2016 12.04 AEDT

Scott Morrison has refused to apologise to Save the Children staff after a second independent report found a lack of evidence for claims they "coached" asylum seekers to self-harm on Nauru.

The treasurer, who was the immigration minister when the government demanded the removal of 10 Save the Children staff from the island in October 2014, insisted he had "made no conclusion about the allegations" even though he had publicised the "completely unacceptable" details in a press conference.

The human rights commissioner, Tim Wilson, has called on the government to apologise to Save the Children for its handling of the matter, saying it would be the "appropriate, respectful and decent thing to do" after two officially commissioned reviews found the claims were unsubstantiated.

The Moss review found no conclusive evidence that the staff members had facilitated protest activity, encouraged self-harm or fabricated assault allegations, and called on the immigration department to review the decision to remove them.

The subsequent Doogan review, published last Friday, found there was "no evidence nor reliable information" to justify the summary removal of nine of the staff and called on the government to begin compensation talks. A 10th staff member resigned before the removal directive was issued.

Asked directly whether he would apologise in light of the review findings, Morrison said they were matters for the immigration minister, Peter Dutton. Morrison did not offer an opinion as to whether Dutton should apologise.

"I commissioned an independent report, I made no conclusion about the allegations that were made about those issues, whether it was Save the Children or anyone else, and any suggestion that I made a conclusion about that at the time is simply false or maybe wishful memory by some," Morrison told the ABC's AM program on Friday.

"The independent report has been undertaken, I think the report speaks for itself and those are matters for the immigration minister because I'm focused on the economy."

Dutton has not commented on the Doogan report, including whether he would apologise. The minister's office referred to a statement issued by the department, which accepted the recommendations and acknowledged the Save the Children staff "were providing services to the government of Nauru in difficult and challenging circumstances".

When Morrison announced the commissioning of the Moss review on 3 October 2014, he told reporters he was "drawing no conclusions about any of these matters" but went on to say service providers were "employed to do a job not to be political activists".

"Making false claims and, worse, allegedly coaching self-harm and using children in protests is also completely unacceptable, whatever their political views or whatever their agendas," he said at the time.

On 7 October 2014, Morrison said the review was needed because he had received reports "which indicate that there may have been a level of coaching and facilitation and coordination amongst people who are working for one of our service providers".

"Now 10 people in relation to those issues have been asked to leave Nauru and that instruction was given to Save the Children last week," he told the 2GB broadcaster Ray Hadley.

The coaching claims have their origin in an intelligence report by the Transfield Services sub-contractor Wilson Security, which said it was "probable that there is a degree of internal and external coaching, and encouragement, to achieve evacuation to Australia through self-harm actions".

But the Doogan report said the original email naming the 10 Save the Children staff members stated there was no firm evidence of involvement at that stage and "it seems that the intention was that further investigation would be undertaken before any action was taken".

Contractor staff on Nauru, the report said, "were being pushed to provide names and information to support what was perceived in Canberra to be [Save the Children] staff providing inappropriate support or assistance to transferees in various ways".

The department responded to the report by saying it would “continue to engage with [Save the Children] and legal representatives of its former staff” and would implement the recommendations in line with its legal obligations.

<http://www.theguardian.com/australia-news/2016/jan/22/scott-morrison-wont-apologise-after-claims-detainees-coached-to-self-harm>

22. Save the Children compensation, apology for Nauru removal a matter for Immigration Minister, Scott Morrison says

ABC News Online

By political reporter Stephanie Anderson

First posted Fri 22 Jan 2016, 6:47am

Updated Fri 22 Jan 2016, 6:53am

Treasurer Scott Morrison has refused to be drawn on recommendations that staff removed from Nauru's immigration detention centre should be offered compensation.

Nine former Save the Children staffers are calling on the Government to apologise, after they were sent home in 2014 after raising asylum seekers' concerns about sexual harassment by guards.

Mr Morrison, the then immigration minister, commissioned a report amid suggestions that the group had orchestrated a campaign to undermine the Government's offshore detention policy.

But he refused to be drawn on the report's findings today — less than a week after it was issued — telling the ABC that it was now a matter for his successor Peter Dutton.

"They're matters for the Immigration Minister," he said.

"I commissioned an independent report. I made no conclusion about the allegations that were made about those issues ... any suggestion that I made a conclusion about that at the time is simply false."

The heavily redacted report, released by the Department of Immigration and Border Protection on Friday, stated the workers should be offered compensation after finding no evidence they acted outside their duties at the Nauru detention centre.

Save the Children chief executive Paul Ronalds said an apology was also owed.

"The report's findings make it clear, I think, that the staff involved deserve compensation, as does Save the Children for the cost it incurred in relation to this," he said.

"But I think more importantly, a full apology to both the staff impacted and Save the Children by the former minister and the department is entirely appropriate."

<http://www.abc.net.au/news/2016-01-22/save-the-children-compensation-immigration-minister-morrison/7106808>

23. More than 930 academics call for children to be released from detention

Sydney Morning Herald

January 21, 2016 - 6:03PM

Bianca Hall

An impassioned plea by more than 900 Australian academics for the government to release children from detention centres has been dismissed by a former government frontbencher as being "a sad disassociation from practical considerations".

The academics wrote to the government before Christmas, and again on Monday night, urging the government to free children detained in Australia and on Nauru as a matter of urgency.

Signatories included experts on child psychology, human rights, public policy and the law, from universities across the country.

"We are concerned about the serious deleterious effect this [detention] has on the physical and psychological welfare of children, who in effect are being punished in the absence of guilt on their part of any kind and outside the normal legal, child protection and welfare frameworks within which their situation should more properly and appropriately be addressed," the academics wrote.

Addressing their letter to all federal politicians, the group said the detention of children was in breach of Australia's international law obligations, and urged the government to release children into the community while their asylum claims were being assessed.

Only one government MP responded. In a curt response sent on Christmas Eve, Liberal Senator Eric Abetz thanked the letter's author, the University of Melbourne's Professor Philomena Murray.

He went on: "To make such a request so close to Christmas shows a sad disassociation from practical considerations. Further, I note that when the Coalition came to Government, there were about 2000 children in detention and that has now been reduced to well under 100. Further, I note that when Labor came into Government, there were no children in detention. This is indicative of the success of our border protection policy."

Immigration Minister Peter Dutton told Sky News on Monday there were 78 children in detention in Australia, and 72 of them would be sent soon to Nauru.

But asked for the number of children detained in Australian mainland facilities and Nauru, the Department of Immigration and Border Protection pointed to December 30 figures showing 91 children were detained on the mainland – 59 in so-called "alternative places of detention", which can include correctional facilities, hotels and foster care; and 32 in residential or transit housing. A further 68 children were being detained on Nauru.

Professor Murray said no Labor MPs responded to the letter.

On Monday night, Professor Murray wrote a second letter to Mr Turnbull, reiterating the group's concerns.

"We appreciate that the numbers of children in detention have been reduced," she wrote. "While numbers are important, one child in detention is one too many."

Mr Turnbull's office was contacted for comment.

<http://www.smh.com.au/national/more-than-930-academics-call-for-children-to-be-released-from-detention-20160120-gm9sl0.html>

24. Legal showdown looming on children in detention

ABC Radio CAF - PM
Natasha Robinson
Monday, January 18, 2016 18:25:00

TIM PALMER: The Government's threat to return scores of asylum seeker children to Nauru within weeks could set the scene for a legal clash on the issue.

The move by Immigration Minister Peter Dutton was announced ahead of a High Court judgment which will decide the fate of children on Nauru.

Doctors, lawyers and political opponents are accusing the Government of using the children as political pawns, as Natasha Robinson reports.

NATASHA ROBINSON: It was a statement met with astonishment in legal circles.

In today's Daily Telegraph newspaper, Immigration Minister Peter Dutton announced 72 children would be returned to immigration detention on Nauru within weeks.

A High Court judgment that will decide the legality of offshore detention on Nauru is pending.

Daniel Webb is a director of legal advocacy at the Human Rights Law Centre that's running the case.

DANIEL WEBB: Look, it's for the Minister to decide what he thinks is appropriate to say when a matter is currently before the courts.

The fate of this group of children, which includes 33 babies born right here in Australia, depends in part on the outcome of this High Court case and it would be fundamentally wrong for the Minister to send them back to a tiny island, to conditions that we know would cause them a great deal of harm.

NATASHA ROBINSON: The Government is taking credit that the numbers of children in immigration detention has dropped to historic lows.

Latest figures show 68 children are in offshore detention on Nauru, and according to Mr Dutton's office, there are now 79 in detention on the mainland.

Claire Hammerton from the organisation ChilOut, which lobbies for children to be taken out of detention, says the trauma for families caught in the system remains intense.

CLAIRE HAMMERTON: We have directly spoken to children who have been in detention for years.

I'm aware of one family who have been in detention - there are two reasonably young children in that family who have been in there for almost four years.

NATASHA ROBINSON: What does that family tell you, and what do those children say about their experiences?

CLAIRE HAMMERTON: This particular family, the children within that family I've spoken to have simply lost hope.

NATASHA ROBINSON: Late last year, amendments to legislation passed the Senate that called for all children to be removed from immigration detention within 30 days.

Richard Marles is Labor's immigration spokesman, and he says there is no reason for detention to extend to months and even years.

RICHARD MARLES: The truth of the matter is that processing times have blown out dramatically under this Government.

People are being kept in limbo.

NATASHA ROBINSON: The legislation amendments, that will return to the Lower House when Parliament resumes, are attached to a Government bill.

The bill seeks to make it easier for the Government to cancel visas, and gives them more power to turn boats around at sea.

Greens Senator Sarah Hanson-Young says those powers will not be granted to the Government unless they agree to the amendments posed by her party and Labor.

SARAH HANSON-YOUNG: So if Malcolm Turnbull wanted to ensure no child was sent back to Nauru, all he has to do is pass those laws.

NATASHA ROBINSON: Sarah Hanson-Young said she was stunned this morning to hear Minister Dutton's statement that 72 children would be sent back to Nauru within weeks.

SARAH HANSON-YOUNG: We are still waiting for the High Court to hand down its ruling in relation to the fate of many of these children.

And for Peter Dutton, as the Minister, to be making these types of statements, putting the fear of God into children and their families that they'll be sent back to the horrors of Nauru - it's unnecessary, it's mean-spirited, and it's irresponsible.

NATASHA ROBINSON: Australian Human Rights president Gillian Triggs said she was also deeply unimpressed at the suggestion of sending scores of children back to Nauru.

GILLIAN TRIGGS: My primary response is one of considerable disappointment. The children have been transferred from Nauru to Australia for medical reasons, and they are frankly in despair at the prospect of returning to the conditions and circumstances of their detention in Nauru.

TIM PALMER: President of the Human Rights Commission, Gillian Triggs. Natasha Robinson the reporter.

<http://www.abc.net.au/pm/content/2015/s4390238.htm>

25. Child refugees tell of bullying on Nauru: 'They are rude to us, they punch us'

Australian government accused of using children as 'hostages' to stop the boats in video appealing for a real home and a proper education

The Guardian
Helen Davidson and Ben Doherty
Thursday 21 January 2016 17.36 AEDT

Child refugees living on Nauru have described bullying and neglect at school because of their foreign status.

In a video appealing to the Australian government, released on Wednesday evening, a group of about 35 children sit grouped together and address the camera in English. "Did you hear our voice?" asks an older girl. "Australian government uses us for hostage, for stopping the boat. We are children, not policy matters.

"You cannot use us for stopping the boats. Are we not children? What's the difference between us and the children going to Australia?"

The clip was released by OPC Voice, a website put together by anonymous refugees and asylum seekers on Nauru with assistance from supporters. Over the past week it has published news articles, videos and audio describing their lives in the Pacific island nation.

“When I go to the school the Nauruans say to me, ‘Excuse me, refugee, excuse me, refugee,’” one young girl says.

“They tell to me, ‘Refugee, refugee, go to your country, here is our country.’ All of the time they fight to us, they are rude to us, they punch us. We go to our principal, and principal says to us, ‘I don’t care, the Nauruans are us, it’s our country, I don’t have to do nothing for you guys.’”

Another child says: “We want a real home, a real home where we can gather everybody. Not some room so little. We want a real home and a real school ... We want to go to Australia.”

The school operating inside the regional processing centre was closed in the middle of last year and all students were moved to local schools.

Schooling in Nauru is compulsory until the age of 15 but truancy rates are as high as 60% and the standard of education and the facilities themselves is low. The education system is yet to fully recover from near-collapse between 2000 and 2005, when there was a mass exodus of teachers.

One of the refugees involved with OPC Voice denied the children had been coached in their messages. “After 30 months they have become politicians,” he told Guardian Australia. “They know everything about the refugee process, [and] about all news in Australia that is about them, because their parents are always talking about this matter.

“The children are always asking their families, when can we go to Australia, or do you have news? They know many things above their ages.”

The video was released after Australia’s immigration minister, Peter Dutton, said this week he intended to send 72 children now in detention in Australia to Nauru. The Guardian understands up to 30 of those children are infants who were born in Australia.

The others were taken to Australia from Nauru because they, or a parent, were suffering from a serious medical condition that could not be treated on the island.

Dutton said the number of children in detention in Australia had been reduced from a peak of 1,992 in July 2013 to 79 now, “which includes 72 kids who are scheduled to go back to Nauru”.

“I have said for a long time that I have been working hard to get that number down to zero and I intend to do that as quickly as possible,” he told Sky News this week.

The human rights commissioner Gillian Triggs labelled his statements “misleading”.

The “scheduled” return of the children to Nauru is presumptive upon the high court ruling in the government’s favour. The government has argued that the children are not being returned to detention on Nauru because of the Nauru centre’s transition to an “open” centre.

The minister said the remaining seven children in detention in Australia – not “scheduled” to go back to Nauru – had at least one parent with an ongoing security concern flagged by ASIO.

<http://www.theguardian.com/australia-news/2016/jan/21/child-refugees-tell-of-bullying-on-nauru-they-are-rude-to-us-they-punch-us>

26. Peter Dutton's children claims 'misleading': Gillian Triggs

Sky News

Updated: 12:32 am, Wednesday, 20 January 2016

Human Rights Commission President Gillian Triggs has labelled Immigration Minister Peter Dutton's statement that there will be only seven children in detention as 'misleading'.

'By suggesting the only children held in detention are those seven ASIO-related families is a deeply misleading comment,' Professor Triggs told Sky News' Laura Jayes.

The Immigration Minister told Sky News that while 72 children currently in mandatory detention on the Australian mainland will be sent to Nauru, seven will remain onshore due to one parent being handed 'adverse' security assessments by ASIO.

'If you could envisage scales, you are simply moving children from one place to another and then claiming there is only seven left in Australia,' Professor Triggs added.

'We don't know yet whether those children will be moved to Nauru and we would certainly argue it would be contrary to international law were they to be moved.'

Peter Dutton said he is aiming for no children to be left in detention and the Department of Immigration is working on trying to find way to release the remaining out of detention. However, Professor Triggs argued within ASIO's guidelines children don't have to be in detention.

"One factor the minister again chose not to mention is there's nothing in the law, nothing under ASIO requirements, that they be held in mandatory closed detention, nothing at all.'

Gillian Triggs credited the current government's ability to reduce the number of children in detention - after Labor held 1,342 children in immigration facilities when it left office.

She also acknowledged her relationship with the Turnbull government has improved since the ousting of Tony Abbott.

'I'm looking forward to a much more respectful year this year', she added.

<http://www.skynews.com.au/news/politics/federal/2016/01/20/peter-dutton-s-children-claims--misleading-.html>

27. Australia, not UN, has final say on Syrian and Iraqi refugee intake, Peter Dutton says

ABC News Online

By political reporter Stephanie Anderson

First posted Thu 21 Jan 2016, 9:22am

Updated Thu 21 Jan 2016, 9:31am

Immigration Minister Peter Dutton says the Federal Government will have the final say on who is resettled in Australia as part of the intake of 12,000 additional refugees.

The former Abbott government agreed to the one-off intake of those displaced by conflict in Syria and Iraq, with the first people arriving late last year.

Mr Dutton said the resettlement program would focus on persecuted minorities, including Christians and families.

He told Macquarie Radio the department had been working with Syrian Christian leaders and the United Nations, but the latter could only make suggestions.

"Ultimately we want to make sure that we're bringing the right people," he said.

"People who can integrate into our community, that can get a job, can speak English, can give their kids the opportunity to go to school, that don't treat women appallingly."

Mr Dutton said "Australia will decide who we accept". "The UN can make referrals and if we're not happy that person satisfies our criteria, they won't be settled in our country," he said.

"The Prime Minister has been as adamant about that being the case as prime minister Abbott was."

Mr Dutton said significant checks were being undertaken, including the searching of US databases.

Security concerns have been raised by some in the Federal Government, but fears have been downplayed by ministers and coordinators for the resettlement.

More than \$900 million has been allocated to resettling the refugees and the Department of Immigration and Border Protection last year doubled its staff numbers in the Middle East to enable quick processing.

Syria has been embroiled in a vicious civil war since a popular uprising against dictator Bashar al-Assad in 2011, with increasing violence being inflicted at the hands of Islamic State militants.

Prime Minister Malcolm Turnbull spoke on Australia's role in the conflict earlier this week, telling a Washington think tank that an enduring victory against militant forces "must be won and owned by the people of Iraq and Syria".

"The destruction of ISIL requires military action including boots on the ground but they must be the right boots on the right ground," he said.

<http://www.abc.net.au/news/2016-01-21/australia-not-un-has-final-say-on-refugee-intake-dutton-says/7104160>

28. Immigration detainees four times more likely to suffer severe mental distress

Data obtained by Guardian Australia under freedom of information shows 14.9% of those held in onshore detention were in severe mental distress

The Guardian
Ben Doherty and Nick Evershed
Tuesday 19 January 2016 07.01 AEDT

People held in immigration detention have rates of severe mental distress nearly four times the general population in Australia, the government's detention health services provider has said.

With average detention times at a near-record level of 445 days, International Health and Medical Services has warned the government that detainees' mental health is deteriorating dramatically the longer they are incarcerated.

IHMS assesses detainees' mental health using the Kessler psychological distress scale, also known as K10, a self-rated survey widely used in Australia and internationally to gauge a person's anxiety and depressive symptoms.

IHMS data shows that of those held in offshore detention (on Nauru or Manus Island), 12.6% were in severe mental distress. In onshore detention (on the Australian mainland and on Christmas Island), the figure was even higher, at 14.9%.

The severe mental distress rate among the Australian general population, according to Australian Bureau of Statistics figures, is 3.5%.

A total of 15.8% of offshore detainees, and 14.5% of those detained onshore, were reported as having moderate levels of mental distress. The Australian community figure (categorised by the ABS as "high") is 8.5%.

But IHMS, in confidential documents prepared for the Australian Department of Immigration and Border Protection, and obtained by Guardian Australia under freedom of information, has also warned the detention figures of severe distress are likely to be under-reported.

"It should be noted that their participation in K10 screening is voluntary and that those with higher levels of distress are probably less likely to participate in screening, meaning that this percentage is likely an underestimate."

The documents show asylum seekers' mental health deteriorates sharply the longer they are held in detention.

"There appears to be a trend for K10 scores to increase with length of stay in detention," IHMS wrote to the department, "with under 12% of those staying 12 months or less scoring in the moderate to severe range, increasing to 27.9% for those remaining between 12 to 18 months, and to 31% for those remaining in detention for over 19 months."

The average time in detention has dramatically increased over the past four years, from an average of 72 days in July 2013 to 445 days last month.

Nearly a quarter – 23.5% – of people in immigration detention have been incarcerated more than two years.

However, the number of people held in detention has fallen from a peak of 19,000 in 2012 to just over 3,200 last month; 1,792 in Australia and 1,453 offshore. The number of children in detention has fallen from 1,992 in July 2013 to just 91 in Australia, and 68 on Nauru.

Moderate to severe score on the K10 would require clinical intervention in the general community.

"This is a significant percentage of the total population," IHMS said of the offshore detention K-10 figure, "and ... likely to be due to a combination of factors including the relative time in detention, morbidities in the transferee population which make them predisposed to heightened distress when faced with hopelessness, and apprehension about their future."

A spokesman for the Department of Immigration and Border Protection said people in immigration detention had access to mental health care that was "broadly commensurate" with the Australian community standards, and noted that many detainees arrived in detention with pre-existing mental health conditions.

Onshore, including on Christmas island, mental health care is provided within detention.

"To ensure that the mental health support provided is at a standard comparable to that available in the general Australian community, on-site general practitioners, mental health nurses, psychologists and psychiatrists are engaged. In addition, any person disclosing or displaying symptoms of a possible history of torture or trauma is referred to a specialist torture and trauma counselling service for further assessment, care, and counselling.

"In regional processing countries the Department, through service providers, supports the Governments of Nauru and Papua New Guinea to provide health services, including mental health care."

On Monday, Guardian Australia revealed that children in immigration detention had far higher rates of mental health diagnoses than adult detainees and were likely to suffer serious mental health consequences long after they were released from detention.

And among all people in immigration detention, the prescription of antidepressants, sedatives, anti-anxiety and antipsychotic medications to people in offshore detention had grown more than 150% over the past year of data.

In its reports to the department, IHMS says children are especially affected by the compounding mental trauma of detention and are likely to require continuing psychological treatment for harm caused by their incarceration, even after they have been released.

"This issue is particularly salient for minors, as neither a child's neurological system nor their psychological profile is fully formed, and mental health issues experienced in early childhood, including parenting by mentally ill or distressed parents, will have long-term effects on psychological functioning and will predispose this cohort to future psychological issues."

<http://www.theguardian.com/australia-news/2016/jan/19/immigration-detainees-400-percent-more-likely-to-suffer-severe-mental-distress>

29. Protesters who disrupted men's tennis final in Melbourne charged a year on

ABC News Online

By the National Reporting Team's Dan Oakes

Posted Tue 19 Jan 2016, 12:14pm

A group of asylum seeker advocates who staged a protest during the men's Australian Open tennis final last year have been charged nearly 12 months after the event.

One of the protesters said today that the charges would not deter them from staging protests to draw attention to the treatment of asylum seekers by the Australian Government.

The eight, members of a group called Australia Open for Refugees!, disrupted the match between Andy Murray and Novak Djokovic last February by unfurling a banner calling for the closure of the Manus Island detention centre.

Two of the protesters also jumped onto the court.

The protest occurred in the second set of the final, with Djokovic leading Murray 4-3.

The banner read "Australian Open for Refugees" and "#shutdownmanus", and was placed over an advertisement for Kia, a major sponsor of the Open.

Coinciding with the lead-up to this year's event, the eight protesters were recently told by Victoria Police they had been charged with offences under the Major Sporting Events Act.

Karoline Morwitzer, who was one of the two people charged after jumping onto the court, said she had no doubt the timing of the charges was designed to deter the activists from staging further protests of that nature.

"I think the timing of the charges is entirely predictable for deterring us from ongoing civil disobedience on the issue of refugee rights," she said.

"We have a firm commitment to ongoing civil disobedience on the refugee rights issue.

"The risks we take are so small comparative to the risks for refugees and asylum seekers. They're a drop in the bucket compared to the actions we need to do to mend the system of suffering that is mandatory detention and offshore processing.

"We stand with the doctors and nurses that lock down the wards in the last year, the faith-based groups, the mums and bubs occupying the Department of Immigration.

"There is a movement of civil disobedience and we stand within that, and this is ongoing."

Victoria Police said earlier this week that 12 people were charged during and after last year's Australian Open, and urged fans to behave at this year's tournament.

<http://www.abc.net.au/news/2016-01-19/protesters-who-disrupted-australian-open-final-charged-a-year-on/7098708>

30. People smuggler cash scandal: Jail for boat crew paid by Australian official to turn back

The Age
January 17, 2016 - 3:01PM
Jewel Topsfield and Amilia Rosa

Rote Island: The captain of an asylum seeker boat who said he was paid thousands of dollars by an Australian official to return to Indonesia has been sentenced to five years and eight months' jail on people smuggling charges.

The panel of judges also ordered Yohanis Humiang, 35, to pay 700 million rupiah (\$70,000) or serve an additional five months in prison.

The remaining five crew members were sentenced to five years and six months' jail and a fine of 500 million rupiah or an extra three months' prison time.

The cash payment scandal caused a diplomatic incident between Indonesia and Australia last year and led to a Senate inquiry and calls for a Royal Commission.

In June, Fairfax Media revealed an Indonesian police investigation had found the crew of the boat, which was intercepted by the Australian Navy, had been paid \$US32,000 to return 65 asylum seekers to Indonesia. "Since they received money from Australian customs, then it's proven that they (the captain and crew) made a profit from another party," presiding judge Ari Wahyu Irawan said on Thursday.

The explosive revelations were never denied by former prime minister Tony Abbott, who said the Australian government stopped the boats "by hook or by crook". He also said border protection agencies were "incredibly creative in coming up with a whole range of strategies to break this evil trade".

Judge Irawan said the crew members felt remorse for people smuggling and had families who were dependent on them.

However he said their act encouraged others to come to Indonesia and the people-smuggling trade to prosper in the nation, which had a very wide border.

Mr Humiang said in November that he and the other crew members had made a mistake but were the victims of people-smuggling agents. He said the agents had told them they would not be paid until they took the asylum seekers, who were mostly from Sri Lanka, to New Zealand. "We were just earning a living, we were trying to make money for our family, none of us intended to commit a crime," he said.

Mr Humiang told Fairfax Media last year that the turn-back payments, negotiated by an Australian official called 'Agus', were on the condition he "never ever do this work ever again".

Indonesian police were highly critical of the Australian Navy for sending the asylum seekers back to Indonesia on two boats with just one drum of fuel each, with one saying it was akin to a "suicide mission".

One of the turned back-boats ran out of fuel, and the asylum seekers were forced to transfer to the second in the middle of the ocean. The second boat then hit a reef near Landu Island in West Rote and the asylum seekers were rescued by local villagers.

An Amnesty International report last year called for a Royal Commission into the people-smuggling payments. It found Australian officials committed a transnational crime by, in effect, directing a people-smuggling operation, and put dozens of lives at risk by forcing asylum seekers onto poorly-equipped vessels.

The Australian government has repeatedly insisted that all of its officers acted within the law.

However some public officials - such as those from the Australian Secret Intelligence Service - may have immunity from prosecution under Australian law.

The Senate inquiry, which is due to report in March, is examining, among other things, the legality of any payments to the crew members, the damage caused to the bilateral relationship and the extent to which "any such bribes constitute an incentive for people-smuggling operations in Australia". The asylum seekers remain in limbo in Indonesia.

Kandiha Kayuran and his wife, who gave birth in December, are still in immigration detention in Kupang. He told Fairfax Media they had no idea what the future held. "No one cares, New Zealand is not listening, and Australia too, even after the Amnesty report came out. Please help us."

<http://www.theage.com.au/world/people-smuggler-cash-scandal-jail-for-boat-crew-paid-by-australian-official-to-turn-back-20160117-gm7jos.html>