

Project SafeCom News and Updates

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1. David Marr: Signs at last that Australia has tired of cruelty without mercy to refugees

The dead hand of a government official belies a changing mood among the Australian public and political class. Despite the hopes of the immigration department, borders can't stay absolutely closed forever

The Guardian

David Marr

Tuesday 9 February 2016 16.46 AEDT

Those damn moralists! What a mess they're making. Can't we throw a few hundred kids and their families into unending detention on remote tropical islands without bourgeoisie do-gooders and their churchy mates making trouble back home? Can't they just all shut up?

Michael Pezzullo, chief of the immigration department, was demanding Australians put aside their qualms, allow his department to work in secret so that every child can be returned to those mouldy tents on Nauru lest Australia be overrun by refugees.

His gung-ho rhetoric shocked many. But Pezzullo was not saying anything new. The immigration department has been giving that advice to every government since Malcolm Fraser dealt with the first boatload of refugees to make its way to this country under its own steam.

Imprison every one of them, the department insisted. Put them somewhere lawyers and journalists can't reach them. Punish them for daring to come here without permission. Send a message to the world that Australia's borders are uniquely impregnable.

That was Pezzullo's message on Monday to Senate estimates. When his department later issued a transcript of his statement, these words were picked out in bold: "The path is shut, with no exceptions."

Fraser resisted. Paul Keating caved. So mandatory detention began. But it didn't work. As waves of refugees kept coming, Immigration's advice became tougher and tougher. The department's dream was always to sell politicians a fate so brutal for refugees the boats would stop.

John Howard pushed boats back. That worked. He also imprisoned refugees on Nauru. But in the end he had to face the fact that the world was not going to take them off our hands. The last of them – by this time cracking under the strain – were brought to Australia.

That reality is once again staring us in the face. We can't empty the islands. "All that can be done is being done," Pezzullo told estimates. "I speak of quiet diplomacy in relation to developing options for possible third-country resettlement and the quiet persuasion of those not owed protection to go home."

No one wants these people. New Zealand offered to take some as it did the last time. We refused because it might be a backdoor way into Australia. Otherwise, the world reckons these 1,500 or so people are our problem.

But something is happening here. Australians are starting to pay attention. Ever since that first boat arrived in Darwin in 1976 most of us have shared the fears and backed the tough responses that have brought us to this point: punish or we will be overwhelmed. Most of us still do.

But the thought of little children being returned to Nauru with no prospect of release is beginning to trouble us. What the doctors have been saying for two or three years now can't be dismissed. Ditto the verdicts of the Human Rights Commission, the UN and the churches.

The story is gathering momentum.

That the ABC confused the cases of two children abused in the camps is most regrettable. But it's no answer for Pezzullo to claim the child was older than five and assaulted – "skin-to-skin contact" – rather than raped by another inmate.

The paediatrician Karen Zwi who risked jail by speaking to the ABC is not backing away from her allegation that this was rape and the child of about 15 suffered serious mental health problems as a result. Yet Pezzullo – and the government he serves – are making it clear he will eventually be sent back to the camp where he was attacked.

No exceptions. That's the policy that's what's starting to grate with Australians. We have shown for years we're not much troubled by the cruelty of the systems we've put in place to deter refugees. But absolute cruelty, cruelty without mercy is something we're starting to find hard to hack.

So the premiers are offering to look after the kids otherwise bound for Nauru. This may look to some like a sentimental gesture. But it is remarkable. This is the first time since that boat slid into Darwin that the leaders of mainstream parties have stood up for boatpeople. The first time.

Malcolm Turnbull must have been bitterly disappointed by the high court's decision last week. What a deft way that might have been to close the camps while blaming the lawyers, the constitution and the judges.

But they balked and the politicians are going to have to do the work. They know that it's going to have to be done. We can't have wide open borders. But despite the historic hopes of the immigration department, we can't absolutely close them either.

It's going to take beginning a dialogue with the country in other than apocalyptic terms, opening the detention system to scrutiny, and respecting rather than mocking the moral qualms of Australians. It's unbelievably messy but things may be moving at last.

<http://www.theguardian.com/australia-news/2016/feb/09/in-the-pledge-of-the-premiers-a-sign-that-australia-has-had-enough-of-cruelty-without-mercy-to-refugees>

2. Liam Byrne: Could compassion in politics be making a comeback?

The Age
February 9, 2016 - 11:46AM
Liam Byrne

Daniel Andrews' offer to accept refugees due to be returned to Nauru has touched a nerve, says Liam Byrne.

Victorian Premier Daniel Andrews' offer to the Prime Minister, Malcolm Turnbull, to accept refugees due to be returned to Nauru in his state should not be an extraordinary action. It should not amaze. It should not make people, like me, read his letter twice to make sure I had read it correctly. It should not be extraordinary, but it is.

What should be extraordinary is violations of the UNHCR's Refugee Convention, returning vulnerable people to a place of harm. This should be extraordinary, But it is not.

In twenty-first century Australian politics, bipartisan cycles of 'tough action' on our borders have delivered increasing acts of callous inhumanity. The Coalition and Labor have been implicated in this chain reaction. The reflex of both to criticism from the other has been to harden their stance, to normalise harsher methods, to transform more of the extraordinary into the ordinary.

Daniel Andrews' offer has hit a nerve among many who feel completely disenfranchised by the current discourse on asylum seekers and refugees, not just in Victoria, but all across Australia. Spurred by the High Court's decision last week, this is evident in the offer of Churches to grant sanctuary to refugees. In protests and vigils thousands of people are calling for refugees not to be returned to Nauru. The hashtag #LetThemStay has trended on Twitter as people vent their opposition to the proposed return.

The decision of the Victorian Government has transformed the situation, because it is the act of an elected government. Premier Andrews has made a very simple statement with his letter to the Prime Minister: compassion still has a place in politics. This is something that too many of our political leaders, on all sides, have forgotten.

It may appear that acts of compassion have no place in politics. After all, the practice of governing is a tough business, where difficult decisions need to be made. But an over-reliance on toughness has led to a callousness within the body-politic. There is an inability to consider issues by their impact on the real human beings, rather than their implications for future polls.

Real political courage comes not by exercising inhumanity for short-term expediency, but acting out of genuine empathy and compassion in spite of it. Like any other nation, there is a contest in Australia over who we are, what we are, what we believe in. The decision of the Andrews government is part of this. As he writes, to send 'these children and their families to Nauru is not the Australian way.' No doubt, there will be a negative response to this move. It will almost certainly be branded as opportunist, and a political manoeuvre. But this, if anything, will only show how far removed from the realm of basic human reactions this issue has become.

Maybe compassion is rare in Australian political history. But look at how much compassion has added to our history, and to our sense of self, when a political leader has had the strength to be moved by that basic humane instinct.

How defining it was when Prime Minister Malcolm Fraser decided that whatever the political cost, Vietnamese refugees must be able to come and find safety here. How important it was that Paul Keating declared at Redfern that white Australia must own up to the history of dispossession and violence against Aboriginal peoples. Neither act was instantly popular, and both required great political courage. But it is with such acts that a modern, open, and compassionate society can identify itself.

Can such a society identify itself with the callousness and coarseness of the current policies of both parties towards refugees? Despite Deputy Leader Tanya Plibersek's branding of the refugee debate as 'toxic', Federal Labor has shown no determination to oppose the downward spiral in this area. In fact, it has contributed to it.

All this makes Andrews' offer all the more extraordinary. We should welcome it. But the responsibility now lies with all of us to ensure that compassion lifts our political life so that the extraordinary becomes just a little more ordinary.

---->>> *Liam Byrne is a PhD Candidate at the University of Melbourne researching the history of Labor's political culture.*

<http://www.theage.com.au/comment/compassion-still-has-a-place-in-politics-20160208-gmocxp.html>

3. Philip Ruddock to retire from politics for human rights role

Sydney Morning Herald
February 8, 2016 - 5:34PM
Adam Gartrell

Philip Ruddock is calling time on his 42-year political career to become Australia's first special envoy for human rights.

The 72-year-old former immigration minister and attorney-general announced on Monday he would not recontest his safe Sydney seat of Berowra.

The move followed months of speculation about his future and jockeying among potential replacements in the blue ribbon electorate, including his former staffer - and current next-door neighbour - Julian Leeser.

"I am humbled to have enjoyed such strong support for my involvement in federal politics for over 42 years," Mr Ruddock said.

He is currently the father of the House of Representatives, meaning he is the longest-serving member in the lower house and, indeed, the Parliament. He is the only current sitting MP who began his career in the Whitlam era.

A short time after news of Mr Ruddock's retirement broke, Foreign Affairs Minister Julie Bishop announced his new job.

"As a distinguished member of the Australian Parliament for over four decades, the current chair of the parliamentary joint committee on human rights and a longstanding member of Amnesty International, Mr Ruddock is well-qualified to advocate and represent Australia's human rights views and record," Ms Bishop said.

"As special envoy, Mr Ruddock will focus on advancing Australia's human rights priorities of good governance, freedom of expression, gender equality, the rights of indigenous peoples, and national human rights institutions."

Mr Ruddock will actively promote Australia's candidacy for membership of the United Nations Human Rights Council for the 2018-20 term and represent Australia at international human rights events, Ms Bishop said.

The role will be consistent with the practice of past governments in approving special envoys to support international campaigns, she said.

Mr Ruddock called it an "important opportunity" to serve Australia's interests and advance the quest to rid the world of the death penalty.

He has long been a staunch opponent of the death penalty but his human rights record has been questioned in other areas.

As immigration minister he was one of the chief architects of the Howard government's Pacific Solution and was tainted by the children overboard affair.

In 2000, Amnesty controversially asked Mr Ruddock to stop wearing his Amnesty lapel badge while performing his duties. Mr Ruddock's daughter was so distressed by her father's hardline approach, she left the country to volunteer for an aid agency.

Mr Ruddock on Monday said he had "no regrets". He is tipped to be replaced by Mr Leeser, an outspoken commentator who currently works as a director at the Australian Catholic University.

Mr Ruddock said Mr Leeser's reported threats to challenge him for pre-selection had nothing to do with his decision to retire. But he also refused to back Mr Leeser for the job. "My view is that they should choose the best candidate who offers for preselection and that's always been my view," he said.

Other long-serving Liberal MPs, such as former speaker Bronwyn Bishop are also under pressure to move on. Mrs Bishop has indicated she intends to stay on.

<http://www.smh.com.au/federal-politics/political-news/philip-ruddock-to-retire-from-politics-for-human-rights-role-20160208-gmoe8x.html>

4. Philip Ruddock to retire from politics after 42-year career

ABC News Online

By political reporter Stephanie Anderson

First posted Mon 8 Feb 2016, 12:43pm

Updated Mon 8 Feb 2016, 2:12pm

Veteran Liberal MP Philip Ruddock has announced his retirement from federal politics, after being announced as Special Envoy for Human Rights.

Foreign Minister Julie Bishop said Mr Ruddock's role would include the promotion of Australia's candidacy for membership of the Human Rights Council.

The former Immigration Minister has been under pressure to resign from his Sydney-based seat of Berowra to make way for new MPs.

He has been in Parliament for more than four decades.

In a statement, Mr Ruddock said he would not seek re-endorsement.

"I am humbled to have enjoyed such strong support for my involvement in politics for over 42 years," he said.

Ms Bishop said Mr Ruddock would be Australia's first Special Envoy for Human Rights.

"Mr Ruddock will focus on advancing Australia's human rights priorities of good governance, freedom of expression, gender equality, the rights of indigenous peoples, and national human rights institutions," she said in a statement.

"Mr Ruddock will actively promote Australia's candidacy for membership of the Human Rights Council for the 2018–20 term.

"He will represent Australia at international human rights events and advocate our HRC candidacy in selected countries."

Ms Bishop said his appointment was consistent with the practice of past governments in approving special envoys to support Australia's international campaigns.

<http://www.abc.net.au/news/2016-02-08/liberal-mp-philip-ruddock-to-retire-from-politics/7149306>

5. Philip Ruddock, father of the House, to retire at next election and take UN role

After five decades, the second-longest serving parliamentarian in history will stand down as MP for Berowra and become a UN special envoy for human rights

The Guardian

Shalailah Medhora

Monday 8 February 2016 16:58 AEDT

Philip Ruddock has announced he will not recontest his safe seat at the next federal election and will take on the new role of United Nations special envoy for human rights.

"My view has always been that I should only be there as long as I can make a difference," Ruddock told reporters on Monday afternoon. "This gives me an opportunity to make a difference in the national interest, and I thank the foreign minister and the government for giving me this opportunity."

Ruddock, who as the longest sitting MP is known as the father of the House of Representatives, was first elected into federal politics in 1973. He is the second longest-serving parliamentarian in Australia's history.

In his new role, Ruddock will campaign for Australia to become part of the Human Rights Council, and promote Australia's human rights record, foreign minister Julie Bishop said.

"As special envoy, Mr Ruddock will focus on advancing Australia's human rights priorities of good governance, freedom of expression, gender equality, the rights of Indigenous peoples, and national human rights institutions," Bishop said in a statement. "Mr Ruddock is well-qualified to advocate and represent Australia's human rights views and record."

Ruddock is the chair of the parliamentary joint-committee on human rights and a long-time member of Amnesty International.

He campaigned heavily in recent years for countries in the region to abolish the death penalty, and spoke out on behalf of Bali Nine duo Andrew Chan and Myuran Sukumaran prior to their April 2015 executions.

But he courted controversy in several ministerial roles in the Howard government.

As attorney general, he presided over the 2004 changes to the Marriage Act that limited marriage to be between a man and a woman.

As immigration minister, Ruddock extended mandatory detention and introduced temporary protection visas and offshore processing. He was immigration minister in 2001, during the so-called children overboard scandal, in which asylum seekers were falsely accused of sinking their own boat and throwing their children into the ocean.

He was the architect of the Pacific solution – a policy that takes asylum seekers to neighbouring countries for processing and narrows their legal avenues of appeal – but told Sky News on Monday that he had “no regrets” over the hardline immigration policies he instigated.

“We don’t refool refugees. We don’t necessarily allow them to make choices as to where they can go to feel safe, but we make sure they do,” he said.

Australia’s borders must have “integrity”, Ruddock argued, and part of that was being able to select who successfully migrates to the country.

The former minister brushed aside suggestions that his hand was forced by a looming pre-selection battle, saying there had been “some speculation” on the matter that was “inaccurate”.

Julian Leeser, former Menzies Research Centre executive, is widely tipped to take Ruddock’s very safe Sydney seat of Berowra, currently held by the Liberal party with a margin of more than 16%.

Ruddock will serve out the remainder of this term in parliament while concurrently working as special envoy.

<http://www.theguardian.com/australia-news/2016/feb/08/philip-ruddock-father-of-the-house-to-retire-at-next-election-and-take-un-role>

6. Phillip Ruddock: from wet to the unknowable hard man of the Parliament

Sydney Morning Herald
February 8, 2016 - 10:45PM

Early on the warm morning of January 24, 1995, John Howard and Alexander Downer were in earnest conversation in a locked room upstairs in a motel in Ferntree Gully, east of Melbourne.

In the courtyard below, Phillip Ruddock was intensely interested. He wandered among journalists, nervously earnestly inquiring if they knew what was going on.

No one could have guessed it, but the conversation upstairs was about to change the trajectory of Ruddock's political career.

Downer and Howard, in the hours before a shadow cabinet meeting, were hammering out the terms of a leadership hand-over.

Downer's peculiar 8-month period as leader of the Opposition was ending. Howard's rise and rise was about to begin.

No one could quite understand Ruddock's consuming interest in Howard's new coming. Could it be fear?

Ruddock had been an outsider for almost all the 22 years he had been a Liberal parliamentarian. Howard, it was generally believed, couldn't stand him. His only promotions to shadow ministries had been under Howard's nemesis, Opposition Leader Andrew Peacock

It is all but forgotten now that Ruddock spent the entire first half of his more than 42-year career as a small-l Liberal "wet", forever involving himself in the lonely business of concern for human rights, for those afflicted by war in Cambodia and other dreadful places; by apartheid in South Africa; by injustice across the world.

He was a leader of Amnesty International's parliamentary group and was one of the very few Liberals who belonged to Parliamentarians Against Apartheid.

Worse, he had infuriated and publicly embarrassed John Howard when, in 1988, he and a tiny knot of fellow moderates crossed the floor and voted with the Hawke Government on a motion to oppose any form of racial discrimination in immigration. It was shortly after Howard had declared he was concerned Asian immigration was too high.

Yet, when a few days after the Ferntree Gully meeting, Howard became Liberal leader and went on the following year to become Prime Minister, Ruddock's time had come.

He had, it seemed, found ambition. And Howard, it seemed, knew it, and recognised an opportunity.

In short order, Ruddock became a hard-edged Howard insider - the immigration minister who enthusiastically embraced and broadened Labor's policy of mandatorily detaining asylum seekers. Under his watch, asylum seekers, including children, were locked behind razor wire in Australia's deserts.

He railed against "queue jumpers", introduced Temporary Protection Visas and was an architect of Howard's "Pacific Solution".

Supporters who had thought of Phillip Ruddock for years as no more than a member of the small group of Liberal MPs dedicated to being the social conscience of their party suddenly wanted his Amnesty badge stripped from him. Even a daughter, Kirsty, publicly turned against him over the mandatory detention of children.

As Attorney-General, he introduced the Marriage Legislation Amendment Bill, which ever since has been used to prevent same-sex marriages. The old "wet" might still wear that Amnesty badge, but he had become a hero of the Liberal conservatives.

He did much more, of course, and insists his work was always in the cause of human rights, but these are the things he will be remembered for.

Ruddock, the son of a Liberal Minister in the NSW parliament, Max Ruddock, entered federal Parliament as the member for Parramatta, NSW, at a by-election in September, 1973. He was 30. Gough Whitlam was prime minister.

Now, aged 72, long the Father of the House and the longest-serving Australian parliamentarian after Billy Hughes, he is calling an end to his career.

It has been on the cards ever since Tony Abbott sacked him as chief government Whip, apparently because Abbott believed he hadn't kept him adequately informed of the numbers rising against his leadership.

Phillip Ruddock had always kept his own counsel, and kept his motives close to his chest, as those who saw him in the courtyard of the Ferntree Gully motel all those years have ever since had cause to ponder.

He may have become the longest-serving federal politician in the land, but there seemed always something unknowable about him.

<http://www.smh.com.au/federal-politics/political-opinion/philip-ruddock-from-wet-to-the-unknowable-hard-man-of-the-parliament-20160208-gmonfm.html>

7. Greg Barns: Four Australians with better human rights credentials than Philip Ruddock

The choice of Philip Ruddock to represent Australia internationally on human rights issues makes as much sense as appointing a cigarette company CEO to champion health, writes Greg Barns.

ABC The Drum
By Greg Barns
Posted Tue 9 Feb 2016, 10:57am

Prime Minister Malcolm Turnbull was rightly aghast at his predecessor Tony Abbott's offer of a knighthood for Prince Philip early last year.

It was a "captain's pick" Mr Abbott said. Is the appointment of retiring Liberal MP Philip Ruddock as Special Envoy for Human Rights Mr Turnbull's own captain's pick? If it is then it is as seriously misguided as Mr Abbott's.

Philip Ruddock and human rights are not generally used in the same sentence these days except in the context of searing criticism about his role as immigration minister in the creation and expansion of cruel immigration detention centres in places like Woomera and Baxter in South Australia and Nauru during the early 2000s.

Under Mr Ruddock the mental and physical harm endured by asylum seekers was horrendous. Mr Ruddock's hard line detention policies attracted the ire of international NGO Human Rights Watch and it wrote to Mr Ruddock on January 25, 2002 indicating it was "deeply concerned about reports that Australia is detaining child asylum seekers in poor conditions for long periods of time".

Justice Paul Finn, in a lengthy landmark 2005 Federal Court judgment, described in detail the suffering of two men at the Baxter detention centre and the grossly inadequate healthcare arrangements for asylum seekers.

The former chief justice of India, Justice Bhagwati, after a visit to Australia in 2002 as Regional Advisor for Asia and the Pacific of the United Nations High Commissioner for Human Rights, concluded "that the human rights situation of persons in immigration detention in Australia is a matter of serious concern".

The choice of Mr Ruddock to represent Australia internationally on human rights issues makes as much sense as appointing a cigarette company CEO to champion health.

Australia's human rights record internationally has taken a dive in recent years, largely due to the policies Mr Ruddock and his successors on both sides of politics have executed. The brutal treatment of asylum seekers has tarnished this nation and if we are to have a Human Rights Envoy then it ought to be someone with a credible track record and who is not politically partisan.

A person who can hopefully provide feedback to the Turnbull government and Labor opposition that says Australia needs to lift its human rights game. Here are four such persons.

• • **Michael Kirby**

The former High Court judge and the often lone humanitarian voice on that court in recent years is an ideal human rights envoy.

Mr Kirby has diplomacy experience. His biography notes that in the mid-1990s he was Special Representative of the Secretary-General for Human Rights in Cambodia. In 2013-14 he chaired the UN Commission of Inquiry on North Korea. His advocacy on human rights issues is respected throughout the world. He would have been Mr Turnbull's perfect choice.

• • **Gillian Triggs**

As president of the Human Rights Commission, Professor Triggs has exposed the appalling human rights abuses of Australia's immigration detention system. She is resolute and tough, having endured undermining and bullying from the Abbott government and its friends in the media. Her profound knowledge of international law (she is the author of the leading text on the work in Australia) would be invaluable.

• • **Ian Chappell**

The former Australian cricket captain and now commentator has a strong social conscience. He joined A Just Australia, an advocacy group with which I was associated more than a decade ago and spoke articulately and regularly about giving asylum seekers a fair go.

Mr Chappell has an eye for justice and fairness. Sporting icons as envoys for their nation is not a novel concept and Mr Chappell's name and good standing is still strong in key nations such as the UK and India.

• • **Mick Dodson**

From 1993 to 1998 Mick Dodson was the first Aboriginal and Torres Strait Islander Social Justice Commissioner with the Human Rights Commission. He was also one of the leading figures in drafting the UN treaty on the rights of Indigenous people.

As a lawyer and advocate of Indigenous Australia, Mr Dodson has shown a great capacity to work with all colours on the political rainbow. Critically, he is well regarded internationally.

---->>>> *Greg Barns is a barrister and a spokesman for the Australian Lawyers Alliance.*

<http://www.abc.net.au/news/2016-02-09/barns-philip-ruddocks-human-rights-credentials/7151982>

8. Public servant steps over the line to lecture media about overstepping

Sydney Morning Herald
February 8, 2016 - 11:03PM
Mark Kenny

A bizarre outburst by the secretary of the Department of Immigration and Border Protection, Mike Pezzullo, has revealed that even the champions of Australia's harsh and secretive border control system recognise it would struggle for legitimacy if the facts were known - that its moral and administrative fabric is dangerously threadbare.

While accounts of Australia's systemic cruelty and official indifference to human suffering are legion, corroborating details are lamentably less common. That's obviously the way the government wants it. And it is the way its chief public officials want it too. Ideally there would be no stories. No coverage. And of course, therefore, no accountability.

Journalistic access to offshore detention facilities is next to impossible, and extreme measures have been put in place to withhold information. Health professionals for example, are compelled to a level of secrecy completely inconsistent with their professional obligations and with Australia's liberal democratic ethos.

While the border protection regime is built around the deterrent power of denial, it is buttressed by a morally bankrupt principle of "no exceptions". The trouble is, some people were already caught within it, and it is entirely unproven - even if it is the accepted wisdom - that being humane to these would invite more boats.

But Pezzullo's a true believer and used his moment before a Senate estimates committee to lash reportage of asylum seeker allegations of child abuse and other unspeakables as "in some cases, not what it seems".

Such comments reveal the chief bureaucrat's incapacity for self reflection, nor indeed for exercising the very restraint he advocates in others. While he accuses media of straying into activism, he has clearly overstepped his own role as an independent public official, affecting the tone of a muscular protagonist in a hotly contested political debate.

"It's getting to a point where there is advocacy parading as journalism that is actually deleterious to a sensible discussion about these matters," he complained to the parliamentary committee.

Pezzullo's mindset reminds one of Maslow's famous observation that it is always tempting, when the only tool you have is a hammer, to treat everything as if it were a nail.

<http://www.smh.com.au/federal-politics/political-opinion/public-servant-steps-over-the-line-to-lecture-media-about-overstepping-20160208-gmopye.html>

9. Immigration detention 'not the right place' for children: Border Force's chief doctor

Dr John Brayley tells Senate estimates hearing 'every step' needs to be taken to remove children from detention

The Guardian
Ben Doherty
Monday 8 February 2016 15.00 AEDT

Children are damaged by immigration detention and "wherever possible" they should be removed from it, the immigration department's head doctor has told parliament.

The chief medical officer and surgeon general of the Australian Border Force, Dr John Brayley, appeared before Senate estimates on Monday morning, telling the hearing detention was harmful to children.

"The scientific evidence is that detention affects the mental state of children, it's deleterious," he said. "Wherever possible, children should not be in detention."

More than 72 children now in Australia – including 37 babies born in Australia to asylum seeker mothers – face being removed to Nauru after the high court's decision in the M68 case upholding the constitutionality of the government's offshore detention regime. Brayley was asked whether children suffering depression, anxiety, or post-traumatic stress disorder should be returned to Nauru.

"What we can say is that for a child with those conditions ... being in detention is not the right place for a child and every step needs to be taken to remove a child from detention," he said.

The government has consistently maintained that since the Nauru detention centre became "open" in October, with asylum seekers and refugees able to leave and return the centre when they choose, nobody on Nauru is "in detention" anymore.

However, a Senate inquiry earlier found that all asylum seeker children should be removed from the Nauru centre because it was "not well run", the department did not know what was happening in the centre it was running and children were not safe there.

Brayley told estimates a series of mental health tools had found significant issues among children in detention onshore and offshore, but that the figure needed to be seen "in the context of the government and the department's concerted efforts to remove children from detention".

The department has assessed the mental health of children in immigration detention onshore and offshore, using the Strengths and Difficulties questionnaire (SDQ) that is completed by parents and children. The survey assesses – through 25 questions – emotional symptoms, conduct problems, hyperactivity and peer relationships.

Of 45 children aged under 11 in four onshore detention centres, 67% were rated by their parents as displaying abnormal behaviour. Of 18 older children who completed the survey themselves, 33% self-reported abnormal behaviour and 22% borderline abnormal.

On Nauru, 71% of young children were found by their parents to display abnormal behaviour. Sixteen per cent of older children self-assessed abnormal behaviour and 25% borderline abnormal.

On the disparity between parents and children's assessments it is widely recognised, Brayley said, "that parents will identify problems that children themselves won't identify".

The rate of abnormal behaviour is significantly higher than community levels. The SDQ was designed so that about 10% of children and adolescents would fall into the "abnormal" range on the total difficulties score, the Australian government's survey of child and adolescent mental health says.

The elevated mental health problems highlighted by the SDQ accord with other health data from Australia's immigration detention network.

Last month, Guardian Australia revealed internal departmental documents that show people held in immigration detention have rates of severe mental distress nearly four times the general population in Australia, according to the government's own detention health services provider.

The documents also warn the government that children in detention suffer more serious mental health crises than adults, that their mental health deteriorates the longer they are detained and that detention causes children long-term mental health damage that will persist long after they are released.

The secretary of the Department of Immigration and Border Protection, Mike Pezzullo, told estimates it was the government's policy "to do whatever possible within the ambit of the policy to get children out of detention".

There are far fewer children in detention now – 91 – than at the peak of child detention in July 2013, when 1,992 children were detained. Sixty-eight children live in the detention centre on Nauru and about 80 outside the detention on that island.

However, 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 for more than two years.

<http://www.theguardian.com/australia-news/2016/feb/08/immigration-detention-not-the-right-place-for-children-border-forces-chief-doctor>

10. ABC apologises for 'error' over five-year-old asylum seeker rape claims on Nauru

Sydney Morning Herald
February 8, 2016 - 5:55PM
Nicole Hasham

The ABC has admitted to an "error" in a story that claimed a five-year-old raped at Nauru was slated to return to the island and face his attacker, after immigration officials on Monday labelled the report a "figment".

The report on ABC's 7.30 program this month said paediatricians had detailed their concerns about the child. It came on the eve of a High Court ruling that ultimately found the government's offshore detention network was lawful.

At a Senate estimates hearing on Monday Immigration Department chief Michael Pezzullo denied the reports, saying "there is no five-year-old child – it's a figment".

He said the pediatrician who took part in the broadcast, Karen Zwi, "has conveyed to the department she doesn't understand how the reference to a five-year-old child emerged".

Mr Pezzullo said some media reporting of the asylum seeker issue was "advocacy parading as journalism" and "pamphleteering of an almost political nature" which bent the facts.

In a statement ABC News said it "acknowledges an error".

"Our source, the treating doctor told our reporters about two cases. One was an older child. The doctor stands by her statement that this child was allegedly raped on Nauru," the statement said.

"She also told our reporters about another of her patients, a five-year-old who was allegedly sexually assaulted on Nauru. Our story incorrectly used quotes about the older child in referring to the younger child."

The ABC also said it wrongly referred to the incident as a rape instead of an alleged rape. It apologised for "the errors and confusion."

Department official Cheryl-anne Moy told the Senate hearing the incident involved "physical skin-to-skin contact" and the child was "more than double the age of five".

She said the attacker was another child transferee.

<http://www.smh.com.au/federal-politics/political-news/abc-apologises-for-error-over-fiveyearold-asylum-seeker-rape-claims-on-nauru-20160208-gmopkm.html>

11. 'You can wait to be a pig then': sparks fly between senators at hearing into human rights

Sydney Morning Herald
February 9, 2016 - 12:55PM
Nicole Hasham

Greens senator Sarah Hanson-Young called one government member "a pig" and another "biased" and "a joke" in a fiery Senate estimates hearing scrutinising the conditions faced by children at Nauru.

Senator Hanson-Young was questioning Australian Human Rights Commission president Gillian Triggs on Tuesday over the appropriateness of deporting children and their families detained in Australia to the remote Pacific island.

Professor Triggs said the United Nations Rapporteur on the convention against torture had suggested detaining mentally unwell children was a breach of international conventions.

Nationals senator Barry O'Sullivan interrupted, asking if Professor Triggs personally believed the detention amounted to torture, before backing down and saying he would resume his inquiries later.

"You can wait to be a pig then," Senator Hanson-Young shot back, to which Senator O'Sullivan retorted "that's outrageous".

Professor Triggs said the United Nations had determined the detention regime was "cruel".

She said the evidence in relation to children at Nauru raised concerns "that it amounts to cruel treatment and punishment. I think that is a view that most in this field would support."

The committee's chair, Liberal senator Ian Macdonald, said the commission should attend estimates covering migration issues "so we can get some balance to these quite outrageous claims".

He pointed to Senator Hanson-Young's "bashing" over claims, reported by the ABC, that a five-year-old raped at Nauru was awaiting return - reports that the ABC on Monday said contained inaccuracies.

"I think a comment like that in relation to the abuse and assault of children, Senator Macdonald, is even beyond you, it is beneath you," Senator Sarah-Hanson Young said.

Senator Macdonald accused her of "peddling lies", to which she replied "I'm sorry Senator Macdonald, but you are the most biased chair in this Senate ... you are a joke".

Earlier in the hearing, Professor Triggs referred to an assessment of children in Darwin's Wickham Point detention centre, many of whom are due to fly back to Nauru.

The findings, that the vast majority of children were at risk of post traumatic stress disorder and had little hope for the future, were "very disturbing", she said, adding that the prospect of deportation to Nauru was their "primary concern".

<http://www.smh.com.au/federal-politics/political-news/you-can-wait-to-be-a-pig-then-sparks-fly-between-senators-at-hearing-into-human-rights-20160208-gmp3cp.html>

12. Thousands gather in Australia-wide protests against return of asylum seekers to Nauru

ABC News Online
Posted Mon 8 Feb 2016, 5:05pm

Thousands of people have gathered at rallies across the country to protest against the Federal Government's plan to return asylum seekers to offshore detention on Nauru.

About 1,000 people congregated at Melbourne's State Library, in response last week's High Court ruling that Australia's off-shore processing of asylum seekers was constitutional.

The Government has said it intends to send more than 250 asylum seekers, including 37 babies and 54 children, back to Nauru.

Protest organisers called the offices of Prime Minister Malcolm Turnbull and Opposition Leader Bill Shorten, and held up the phone as people chanted "let them stay".

Daniel Webb, from the Human Rights Law Centre, encouraged demonstrators to make their feelings known to the Government.

"We stand together today to call on Malcolm Turnbull to do the decent thing," he said.

"We stand together to call on our Prime Minister to let these people stay."

Many protesters carried posters with the slogan #LetThemStay.

'They are lily-livered and gutless'

In Sydney, about 2,000 people gathered outside the city's town hall as Mayor Clover Moore took aim at the major political parties.

"Both the Federal Government and the Opposition have failed us over many years. They are lily-livered and gutless, more concerned about votes than human lives," she said.

Similar rallies were also planned in Adelaide, Brisbane, Canberra, Hobart, Perth and Darwin.

Organisers in Melbourne said they had been overwhelmed by messages of support for asylum seekers since the High Court decision.

The case was launched by a Bangladeshi detainee on Nauru who was brought to Australia for treatment and later gave birth to her daughter in Brisbane.

Lawyers for the woman argued that it was illegal for the Australian Government to fund and operate detention centres in a third country.

But the High Court found the current policy was valid under the constitution.

<http://www.abc.net.au/news/2016-02-08/let-them-stay-protests-against-return-of-asylum-seekers-to-nauru/7150462>

13. Nauru asylum seekers: Victorian Opposition offers support for Victoria to resettle group

ABC News Online
Posted Tue 9 Feb 2016, 8:47am

Victoria's Opposition Leader Matthew Guy says he supports in principle a call by the Andrews Government for a group of asylum seekers, due to be sent back to Nauru, to be resettled in Victoria.

In a letter released on social media last week, the Victorian Premier said the state could provide the 267 asylum seekers, including 37 children, with essential services including housing and education.

Mr Guy said he believed the state could help the group who were brought to Australia for medical treatment.

"I think there's a growing mood that we would be able to manage these people in Victoria and manage them quite well," he told 774 ABC Melbourne.

"We are talking about people's lives here and it is one that we should be very cognisant of.

"We have a proud history in this country and as a son of a refugee I think we should maintain that."

However, Mr Guy said he did not agree with the manner in which Mr Andrews had raised the issue.

"I'm not playing politics with this ... it's not about what's gathering traction or not," he said.

"This is a federal issue and the Prime Minister, [it] will be up to him and his Government to determine the best way forward."

In a Facebook post on Monday, Mr Andrews again called for the group to stay. He appeared in the post in a photo with children due to be sent back to Nauru.

"Let's do the right thing by these children and their families," Mr Andrews said.

"Let's prove that we really are a fair and decent society."

The High Court last week threw out a challenge to the legality of the Federal Government's immigration detention centre on Nauru, paving the way for the asylum seekers to be returned.

Three other state premiers have also called on the Federal Government to allow the asylum seekers to remain in Australia.

ACT Chief Minister Andrew Barr has also pledged to take more asylum seekers.

Opposition Leader Bill Shorten has called for conditions to be improved in offshore detention centres but said on Sunday that Federal Labor remained committed to regional processing.

Prime Minister Malcolm Turnbull has described the situation as "very delicate", saying the transfer of the asylum seekers will be looked at on a case-by-case basis.

Thousands of people have protested around the country this week, calling on the group to be allowed to stay.

<http://www.abc.net.au/news/2016-02-09/matthew-guy-offers-support-to-help-nauru-asylum-seekers/7151262>

14. MEDIA RELEASE: Nauru authorities ignore eight-year-old after father wrongly arrested

Tuesday February 9, 2016
Refugee Action Coalition
Ian Rintoul
mobile 0417 275 713

Two examples from Nauru reveal the lack of law and order and child services and protection on Nauru.

One 44 year-old Iranian refugee father has been in jail since 27 January. He is a sole parent on Nauru. His eight-year old daughter has been cared for by another refugee family since he was abruptly taken into custody.

Neither the Nauruan authorities nor the Australian service provider, Connect, have not lifted a finger to even enquire about the welfare of his daughter.

The Nauruan police were actually called by Connect after the man had moved himself and his daughter into spare accommodation in Nibok on the west of the island. Connect objected to the move.

For almost two weeks, the Iranian man has been held in jail. His daughter is being cared for by another family at the Nibok settlement. There has still been no enquiry concerning the care of his daughter. He appeared in court yesterday (Monday, 8 February), although the exact charge was unclear. But he was returned to jail.

He is expected to make another appearance in court today, Tuesday, 9 February.

The second incident involves a 26 year-old single female Iranian asylum seeker who was arrested after an argument with guards at the mess in the single women's section of the family camp, RPC 3.

Around 7.00pm last night (8 February), the Iranian women tried to take some food out of the mess to her room. The mess closes at 8.00pm and doesn't open til the morning -- so asylum seekers are left without food for a long time.

Wilson security guards confronted her at the mess; there was an altercation and the food was taken from her.

Around 10pm, Wilson security guards arrived at the single women's compound with Nauruan police to arrest the woman.

The Refugee Action Coalition was told, "Around five or six police grabbed her, pushed her and smashed her to the ground. She was handcuffed with her hands behind her back and she was dragged to the police car. She was put in the back of the car [paddy wagon]."

She was released a few hours later but has been told she will be re-arrested over the incident. She has been left with abrasions and bruises as a result of the incident.

"This is more evidence of the lack of the rule of law on Nauru. The police are simply an extension of Wilson's and the detention regime on the island," said Ian Rintoul, spokesperson for the Refugee Action Coalition. "Even worse perhaps, the lack of concern for the eight year-old reveals the complete failure of both the Nauruan and Australian authorities, and the lack of child welfare services on Nauru.

"The on-going inadequacy of effective protection for asylum seekers and refugees on Nauru is a major reason the government the 267 presently in Australia should be allowed to stay."

Meanwhile refugees continue to be discriminated against. In a previous press release, we referred to the supermarket "near Anibare" that had refused to serve refugees. The particular supermarket is at the Civic Centre near the airport, believed to be Eigigu supermarket.

"The difficulties in specific identification of the supermarket is a direct result of the communication difficulties with Nauru in general. The Nauruan government maintains a media blackout precisely to prevent information about the conditions on Nauru being reported more widely. But we are told that the particular supermarket has a bad reputation for only serving Nauruans or Chinese shopkeepers, particularly if there are shortages, and shortages are routine," said Ian Rintoul.

For more information contact Ian Rintoul, mob 0417 275 713

15. Manus Island asylum seekers given anti-malarial drug known to cause mental health problems; Immigration Department moving to offer alternatives

ABC-TV - Lateline

By political correspondent David Lipson

First posted Tue 9 Feb 2016, 7:00pm

Updated Tue 9 Feb 2016, 7:05pm

The Immigration Department is moving to offer asylum seekers on Manus Island alternatives to a controversial anti-malarial drug known to cause or exacerbate mental health issues in some patients, after Lateline revealed it has been the only option for several years.

Medical staff who once worked on Manus Island have told Lateline the drug mefloquine, also known as Lariam, started being prescribed to an unknown number of asylum seekers in late 2012 and early 2013.

The drug is known to cause agitation, mood swings, panic attacks, confusion, hallucinations, aggression, psychosis and suicidal thoughts in a small number of patients.

People who have, or have had, any mental health condition are advised not to take the medication.

One advantage of mefloquine is that it only needs to be taken once a week, rather than daily.

In late 2012, when Labor was in power, asylum seekers were given another anti-malaria medication, malarone, which has far fewer side effects.

Lateline has been told health providers on Manus Island switched from malarone because only 30 per cent of asylum seekers were taking it every day as required.

Fearing an outbreak of malaria, a decision was made to change to mefloquine.

One health professional, who worked on Manus Island at the time but asked not to be named, said potential side effects were weighed up against the risk of contracting malaria, a life-threatening disease.

He described the decision as akin to "Sophie's Choice".

Lateline also spoke to malaria expert and head of the Centre for Biomedical Research at the Burnett Institute, James Beeson.

He said mefloquine should only be prescribed after careful consideration from doctors.

"You have to assess each person individually and understand their risks and their other medical conditions and their current environment," he said.

"So I think if you made an assessment that people were at risk of psychological illness or of high levels of stress or anxiety, that would certainly influence your decision as to whether to give mefloquine to those people.

"When we use anti-malarial drugs to protect people against malaria, we're balancing the benefits of protection against malaria, which is a serious disease, a life-threatening disease, against the risks of taking these medications."

In a statement provided to Lateline, a spokesperson for the Immigration Department said asylum seekers were advised of the side-effects of mefloquine.

The spokesperson said the department was taking steps to offer alternatives to mefloquine.

"Mefloquine is one of three TGA medications available for use in malaria prevention," the spokesperson added.

"Following advice from IHMS, and the Department's Chief Medical Officer that all three medications should be available, the Department is considering how best to implement this. Transferees and refugees can then make a personal decision as to which agent to use."

Former soldiers prescribed drug now suffering mental illness

Meanwhile hundreds of former soldiers say they are battling a range of mental illnesses after taking mefloquine on the orders of the Defence Force.

There have been calls for a review into why the Defence Force prescribed the drug to up to 2,000 personnel.

Stuart McCarthy, an army veteran who was given mefloquine during a 2001 deployment to Ethiopia and Eritrea, blames the medication for lasting adverse affects including depression, vertigo and tinnitus.

"Over time it's had a very severe impact on me," he told Lateline.

"It's devastating for me personally, it's been devastating for my career and also for my family."

Mr McCarthy said there are plenty of alternatives that should have been used.

"It's simply not a drug that should be taken when given to people in in a high stress environment or particularly when they're facing trauma," he said.

"There are much safer drugs that have been available right through the history of mefloquine."

The Defence Department has a website to "assist current and serving members and their families wanting to know more about the impact of malaria on the ADF", including the use of mefloquine.

<http://www.abc.net.au/news/2016-02-09/manus-asylum-seekers-given-controversial-anti-malaria-drug/7152618>

16. Leaked Government document outlines tougher migration program, increased monitoring of refugees

ABC-TV - Lateline

By political correspondent David Lipson

First posted Thu 4 Feb 2016, 6:30pm

Updated Fri 5 Feb 2016, 5:21am

A leaked Cabinet document suggests Immigration Minister Peter Dutton is planning to make sweeping changes to the Government's humanitarian resettlement program, making it harder to get permanent residency and increasing monitoring of migrants.

The document obtained by Lateline reveals the extent of the Government's concerns about terrorism and the lengths it is prepared to go to keep radicals out of Australia.

Marked "protected", "sensitive" and "cabinet", the document is believed to contain recommendations for Mr Dutton to present to Cabinet's National Security Committee.

This morning a spokesperson for Mr Dutton described the paper as a "draft document which has not been seen by the Minister or his staff".

The document points to the recent attacks in Paris and unrest in Germany as it outlines "a package of reforms to simplify Australia's visa framework and create stronger controls over access to permanent residence and citizenship". Those changes include:

- • An enforceable integration framework to assess aspiring migrants' suitability for life in Australia

- • A revamped citizenship test and citizenship pledge

- • Enhanced access, use and protection of sensitive information to strengthen intelligence-led, risk-based decision making, from pre-visa stage through to post-citizenship conferral.

Presumably, that would mean refugees brought to Australia under its humanitarian program would be closely monitored, even after they become Australian citizens.

The document says Mr Dutton will bring forward the proposals in the first half of 2016 "to reform the visa framework and remove direct access to permanent residence to better align visa and citizenship decision-making with national security and community protection outcomes".

Removing direct access to permanent residence would see bona fide refugees accepted by Australia no longer given the certainty of a life in Australia.

Links between terrorist attacks and humanitarian intake

The document cites links between terrorist attacks on Australian soil and its humanitarian intake, pointing to the Martin Place gunman Man Haron Monis, Parramatta police shooter Farhad Jabar and the Melbourne knife attack by Abdul Haider.

It points out that all were either refugees or dependents of recent migrants.

There are also specific concerns raised about the 12,000 additional Syrian refugees the Federal Government announced it would take in September last year.

The document says "it is expected some refugees from this conflict will bring issues, beliefs or associations that lead them to advocate or engage in politically motivated or communal violence".

Since September, the expected surge of migrants from Syria has been a trickle of just over 20 people.

The document says the Department of Immigration will "apply additional screening criteria to the 12,000 Syrian intake and extend this, where possible on a risk basis, to the humanitarian program".

'Lessons learned' from Lebanese migrants

Meanwhile, the Lebanese community is singled out in the document as the "most prominent ethnic group amongst Australian Sunni extremists".

The document points to "lessons learned" after a wave of migration to Australia as a result of the Lebanese civil war between 1975 and 1990.

"Australia's historical experience with the Sunni Lebanese community illustrate potential community safety and national security risks associated with unsuccessful integration," it said.

The document says Australia's intake from the Lebanese conflict "was largely from the poorer and uneducated Lebanese Muslim population", introducing a new element to the largely Christian Lebanese community in Australia.

"This led to the transportation to Australia of a Sunni community which included elements who already held extremist beliefs or who were more highly receptive to extremist messages," it said.

Earlier this week Mr Dutton told Lateline the Government had strict measures in place to assess those wanting to come to Australia.

"We look through each of those cases to make sure that the bona fides are established and as I say, very importantly, we conduct biometric tests and conduct those tests in a very rigorous way and we work with our US, UK and Canadian partners to make sure that we can mitigate any threat that might come from people that would pose themselves as refugees but aren't true refugees," he said.

But the document also outlines another way refugees are being selected. "Australia is prioritising family groups who have been registered with UNHCR for lengthy periods to further reduce the potential for deliberate extremist infiltration," it said. That would mean those fleeing some of the most deadly conflicts in recent months are unlikely to make to Australian shores.

Lateline requested an interview with Mr Dutton but he was unavailable for comment. A spokesman from the Immigration Department said draft proposals often came before Government but were not adopted.

<http://www.abc.net.au/news/2016-02-04/leaked-document-outlines-changes-to-migration/7140952>

17. Leaked cabinet document reveals radical citizenship revamp, links migrant program to terrorist attacks

Sydney Morning Herald
February 5, 2016 - 9:17AM
Michael Gordon

New arrivals under Australia's humanitarian program could face much greater scrutiny and be denied direct access to permanent residency under a swathe of radical measures being canvassed by the Turnbull government, according to a sensitive draft cabinet document obtained by Fairfax Media.

The government is also subjecting the 12,000 refugees to be taken from Syria and Iraq to more stringent character, identity and security checks than European countries and changing the make-up of the intake to minimise the risk of "extremist infiltration".

Prepared by Immigration Minister Peter Dutton's department, the document says the minister will bring forward the proposals in the first half of this year to "mitigate radicalisation risks" of new humanitarian arrivals. Australia's humanitarian program of 13,750 is due to rise to 16,250 in 2017/18 and 18,750 in 2018/19.

Mr Dutton has declined to be drawn on the proposals or whether he supports them, telling Fairfax Media through a spokesperson: "Government departments produce draft documents for consideration all the time. This is a draft document which has not been seen by the minister or his staff - nothing more."

The document warns that some refugees from the Syrian conflict "will bring with them issues, beliefs or associations that lead them to advocate or engage in politically motivated or communal violence".

Around 20 Syrian refugees have so far arrived under the separate commitment to take 12,000 refugees from the conflict in Syria and Iraq. The processing of several hundred is almost complete and several thousand are being interviewed for inclusion in the program.

The highly controversial proposals are a direct response to last year's terrorist attacks in Paris and social unrest in Europe and seek to minimise "Australia's potential exposure to the risks posed by extremism and radicalisation of migrants, including humanitarian entrants".

It suggests the risk of radicalisation could be reduced if new arrivals are settled outside Australia's major cities.

"While there is no clear causal relationship between the size of a migrant community and the number of Islamic extremists that emerge from that community in Australia, settlement in regional areas that provide employment opportunities and display a level of community cohesion may reduce the potential for future radicalisation," it says.

The proposals will be branded an over-reaction by multicultural groups and refugee advocates that could stigmatise arrivals and make them less likely to successfully integrate.

Full story at <http://www.smh.com.au/federal-politics/political-news/leaked-cabinet-document-reveals-radical-citizenship-revamp-links-migrant-program-to-terrorist-attacks-20160204-gmm5v4.html>

18. Michael Gordon: Citizenship revamp a threat to most basic resettlement goals

Sydney Morning Herald
February 5, 2016 - 3:34PM
Michael Gordon

The most powerful case against the radical revamp of Australia's resettlement program for refugees is included in the "cabinet sensitive" draft Peter Dutton says he has not seen.

As the draft makes plain, Australia performs better than comparable countries when it comes to resettling migrants in general and vulnerable people in particular - whether the yardstick is employment, education, civic engagement or the taking up of citizenship.

If it ain't broke, why fix it?

The most powerful case against the proposed revamp is that the arguments in the document are illogical, mean-spirited, self-defeating, misleading and poorly expressed.

Take, for instance, the intention to "better align visa and citizenship decision-making with national security and community protection outcomes". What does this mean?

Or the proposal to establish "an intelligence-led threat identification and risk profiling capability incorporating immigration as well as national security and criminality risk".

On my reading, this would involve allocating points under various risk headings to produce "an enforceable integration framework to assess aspiring migrants' suitability for life in Australia".

But to what end? If the objective of a humanitarian program is to help the most vulnerable, ruling people out because they fail a points-based "integration framework" is folly. Far better to focus on ideas to build the nation's capacity to support and integrate new arrivals and make them feel secure and wanted.

What is less ambiguous is the proposal for a revamped citizenship test and citizenship pledge to "strengthen accountability for commitments made at citizenship conferral" - code for being able to take citizenship away if commitments are broken.

What isn't said is that the power already exists to take permanent residency away from those who break Australian laws.

Indeed, the thrust of the document is to make permanent residency, and citizenship, harder to get and easier to lose, which would undermine the most basic object of resettlement: making the new arrival feel secure and welcome.

This is not just a threat to individuals seeking to rebuild their lives. It is a threat to national values of inclusion and cohesion that should go no further.

<http://www.smh.com.au/federal-politics/political-opinion/citizenship-revamp-a-threat-to-most-basic-resettlement-goals-20160205-gmmqn0.html>

19. Lebanese community furious at being singled out in leaked government document

Sydney Morning Herald
February 5, 2016
Adam Gartrell and Beau Donnelly

Lebanese Australians have expressed fury over a leaked federal government document that singles them out as prone to extremism, calling it "dangerous and divisive".

The draft cabinet document obtained by Fairfax Media says Australia's Lebanese community is the "most prominent ethnic group amongst Australian Sunni extremists".

It says the Australian "extremism landscape" has been significantly influenced by the refugee intake, pointing in particular to the Lebanese people who came under the humanitarian program between 1975 and 1990, and subsequent family migration.

Most were from "the poorer and uneducated Lebanese Muslim population", the document says.

"Consequently, this led to the transportation to Australia of a Sunni community which included elements who already held extremist beliefs or who were more highly receptive to extremist messages," it says.

There have been instances of extremist violence within this community although their activities more commonly relate to "the provision of ideological or political support and/or fundraising".

The Lebanese Muslim Association expressed its "utmost disappointment" with the document, condemning the suggestion the Lebanese community is more prone to extremism.

"This language betrays a deep misunderstanding of the Muslim community and the process of radicalisation," the group said in a statement.

"These assumptions are dangerous and divisive, and largely undermine the effort to maintain and establish social cohesion. Painting one community this way only further isolates and vilifies the Muslim community."

The association's president Samier Dandan said the Lebanese community made a valuable contribution to Australian society and the document would only exacerbate community tensions.

Michael Kheirallah, chairperson of the Victorian Lebanese Community Council, said he was shocked the government had singled out one religious group.

"I think 99 per cent of Sunnis are integrated ... and the majority reject extremism and terrorism," Dr Kheirallah said.

The Lebanese community was no different to any other migrant group and while there was a small number of people who did not integrate, the vast majority had settled well, he said.

"I don't know where they get this information from, that some are good, some are bad in the Lebanese community," he said.

"These comments will just make the Lebanese community feel more marginalised. This is not going to help with integration. It will make some people feel uncomfortable."

Prime Minister Malcolm Turnbull and Immigration Minister Peter Dutton say they have not seen the document, which is marked "Sensitive: Cabinet".

Labor has described the document as "borderline racist".

The document suggests new arrivals under the humanitarian program could face much greater scrutiny and be denied direct access to permanent residency under a swathe of radical reforms.

It says settlement services at the time when the majority of Lebanese Muslims were arriving were of an "informal nature". The lessons learned from the Lebanese experience had informed and improved settlement services.

<http://www.smh.com.au/federal-politics/political-news/dangerous-and-divisive-lebanese-community-furious-at-being-singled-out-in-leaked-government-document-20160205-gmmra9.html>

20. Border Force head to face questions on alleged payment to people smugglers

Major General Andrew Bottrell will appear before Senate inquiry into alleged government payment of \$32,000 to crew of asylum seeker boat in May 2015

The Guardian
Ben Doherty
Friday 5 February 2016 06.18 AEDT

The operational commander of Australian Border Force will face questions from the Senate on Friday on whether the Australian government paid Indonesian people smugglers more than \$30,000 to turn their boat around.

Major General Andrew Bottrell, the ABF's operational head, and the secretary of the Department of Immigration and Border Protection, Michael Pezzullo, are slated to appear before a Senate inquiry into the alleged payments to people smugglers.

Mystery still surrounds the alleged payment of \$32,000 to the crew of an asylum seeker boat reportedly bound for New Zealand in May 2015.

A boat carrying 65 asylum seekers from Bangladesh, Burma and Sri Lanka, and crewed by six Indonesians, was intercepted by Australian customs and navy vessels in international waters on May 17 and then May 22.

The boat was taken to waters off the coast of the Australian Ashmore Reef. There, the asylum seekers were transferred to two smaller boats and escorted back to Indonesian waters. One of the boats later crashed on a reef near Rote Island.

The six crew members, who are facing charges in Indonesia for people smuggling, have stated that an Australian official paid them, in US dollars, between \$5,000 and \$6,000 each to return with the asylum seekers to Indonesia.

This was corroborated by statements from the asylum seekers, who are in detention in Indonesia, and Indonesian police.

While media reports and an Amnesty International investigation have presented significant evidence that the payment took place – including independent corroboration from crew members and asylum seekers, photographic evidence of the money, and police testimony – the Australian government has refused to confirm or deny what took place at sea, citing secrecy over "on-water matters".

Senate committees have considerable powers to compel officials to attend inquiry hearings and to answer questions.

There are, however, caveats for public interest immunity where information might damage Australia's national security, defence or international relations.

Legal opinion submitted to the Senate inquiry says that Australian government officials paying alleged people smugglers to turn their boats around in the middle of the ocean may constitute a serious breach of international law, and could expose government agents to prosecution in foreign courts.

It has been widely reported – though unproven – that the payment was made by an officer of the Australian Secret Intelligence Service. ASIS officers may be exempt from prosecution for making the payment under an immunity in the Intelligence Services Act 2001.

However, that immunity does not extend to Indonesian law, nor does it offer exemption to Australia's obligations under international treaties on migrant smuggling.

Professor of international law at the University of Sydney Ben Saul wrote in a submission to the Senate: "Australia has no international legal right to unilaterally engage in people smuggling against other countries in order to prevent people smuggling into Australia – just as Australia would have no right to pay terrorists to attack Indonesia instead of Australia."

Saul said Australia's actions appeared counterproductive to its stated aims of stopping irregular migration and preventing deaths at sea.

"At a policy level, the alleged conduct encourages more smuggling – and deaths at sea – by 'putting the sugar back on the table'; shifts the burden on to other countries; irresponsibly combats smuggling to Australia by committing the crime of smuggling to Indonesia; and further victimises the victims of smugglers.

"There is also a broader policy question whether it is appropriate at all for Asis to be directed by governments to divert its limited resources from genuine national security threats (such as protecting Australians from terrorism) to focus on the lesser, criminal problem of smuggling."

The Department of Immigration and Border Protection has consistently maintained all elements of Operation Sovereign Borders were "conducted consistent with Australian domestic law and Australia's obligations under international law".

In a submission to the Senate inquiry Major General Bottrell said the asylum seeker vessel had been observed "in poor weather conditions, which were rapidly deteriorating".

"The master of the vessel indicated they were experiencing difficulty and requested assistance. Border Protection Command assets rendered immediate assistance in accordance with our international safety at [sic] life at sea obligations and assisted the safe return of the people to Indonesia," Bottrell wrote.

"I believe our actions to assist this vessel were necessary to preserve the safety of life of those on board. The officers on board the Border Protection Command vessels operated in dangerous sea conditions to render assistance to the distressed vessel."

Those who were on board dispute this. Crew and asylum seekers told investigators the ship was well-equipped and that no distress signal was sent at any time. The crew said the boat never entered Australian waters and had enough food and fuel on board to reach New Zealand.

The Indonesian government has said it believes Australia paid the ship's crew. "We asked for clarification and for further information on this issue," a foreign ministry spokesman, Arrmanatha Nasir, said last year. "We did not receive this, so in that context we cannot be blamed for believing that there was an illicit payment."

Amnesty International's refugee coordinator for Australia, Graham Thom, will appear before the Senate inquiry on Friday morning.

"The evidence Australian officials paid off the boat crew in May 2015 is very strong, and so far the government has deliberately avoided refuting this evidence," he said before his appearance. "Such payments from Australian officials would amount to a transnational crime. This is not a claim Amnesty International makes lightly".

"We have also amassed a significant amount of witness testimony pointing to a systematic disregard for the wellbeing of people on board vessels pushed back by Australian officials, from allegations of physical violence to the denial of medicines and medical care, to endangering people's lives by forcing them on to crowded vessels with inadequate fuel".

<http://www.theguardian.com/australia-news/2016/feb/05/border-force-head-to-face-questions-on-alleged-payment-to-people-smugglers>

21. Steph Cousins: When government officials tell us that we don't need to know, we should be wary

Before giving evidence to the Senate committee inquiry on Friday, Amnesty International's Steph Cousins explains how her inquiry came to its conclusion that Australian officials paid people smugglers to return a boat to Indonesia

The Guardian
Steph Cousins
Friday 5 February 2016 06.27 AEDT

Since its launch, the military-led operation that is Operation Sovereign Borders has been conducted covertly, with little justification, and we are told this is necessary.

But what actually happens under the banner of this secretive operation? What kinds of things do Australian officials do to get boats to turn around? And what if, under the veil of secrecy, the line between the people smugglers and the government starts to blur? What if, on the vast open seas, Australian officials begin to direct and even participate in criminal and abusive acts?

These questions are no longer far-fetched. These are questions we at Amnesty International were forced to ask ourselves after allegations surfaced in 2015 that Australia had paid off people smugglers to return asylum seekers to Indonesia.

We began an investigation, looking at seven turnbacks conducted between late 2013 and mid-2015. The findings were published in October 2015 in a report entitled: *By Hook or by Crook: Australia's Abuse of Asylum Seekers at Sea*.

Our investigation of the May 2015 incident was based on interviews with all the adult asylum seekers on board, the boat crew and Indonesian police, backed up by photo and video footage.

The evidence indicates that Australian officials intercepted and boarded a boat en route to New Zealand and then detained the bulk of the passengers in prison-like cells on board a Border Force ship for a week at sea. Despite claims by government officials, testimony gathered by Amnesty International suggests the boat was not in distress and did not request assistance from the Australians. Indeed, I spoke to one of the asylum seekers about this just a couple of days ago, and he was emphatic that no distress call was made.

During the turnback incident, we received reports that Australian officials subjected these people seeking asylum to various forms of ill treatment. These allegations included: forcing the adult male passengers to stay outside on the boat overnight in heavy rain without protection from the elements, and confiscating medicines from the passengers and denying them access to medical assistance when they requested it.

In earlier turnback incidents, we received even more disturbing allegations of physical violence and verbal abuse, such as the use of pepper spray on asylum seekers and people jumping overboard when confronted with Australian officials due to panic and fear.

Then there is the alleged payoff made in May 2015. Our evidence corroborates what has been widely reported in the media, that Australian officials working under Operation Sovereign Borders paid US\$32,000 to six crew members to smuggle people originally bound for New Zealand back to Indonesia instead. The Australians provided maps showing the crew where to land in Indonesia, a GPS device and gave them the boats to sail.

Witness testimony backed by video footage reveals how the intervention by Australian officials endangered the lives of the people in that turnback by transferring them to boats that did not have enough fuel.

We also spoke to other asylum seekers who were deeply suspicious Australian officials had paid off their boat crew when they were pushed back to Indonesia in July 2015. This allegation warrants investigation too.

In none of the turnbacks we investigated did asylum seekers tell us they were asked by Australian officials about their claims. It appears they were each collectively expelled without regard for the risks they might face if pushed back.

It certainly wouldn't be surprising to many that Amnesty International has grave misgivings about Operation Sovereign Borders. Applying a secretive and militarised approach to managing Australia's treatment of vulnerable people is a recipe for disaster.

This investigation has only reinforced our concerns: paying off boat crews, illegally detaining vulnerable people at sea, subjecting them to ill treatment and then pushing them back to an uncertain fate is abhorrent practice for any government – and evidence of these practices cannot be swept aside.

Open government and freedom of the press are cornerstones of a healthy, human rights protecting society. When government officials tell us that we don't need to know, we should be wary. When ministers deny wrongdoing, but fail to produce the facts, we should be deeply sceptical.

But the truth is, when it comes to Operation Sovereign Borders, we have become complacent. It has been too easy to look away and allow the strong arm of the Australian government to keep the global refugee crisis out of sight and out of mind.

And in that vacuum of public accountability, the government has gone too far. This is the way of countless governments Amnesty International encounters – but it is not what I expect from my home country.

Perhaps if there was a little more accountability we could come together as a nation to do the right thing and help people seeking our protection, not push them away.

The ball is now in Malcolm Turnbull's court. I can only hope he will come to show the moral leadership his predecessors did not.

---->>>> *Steph Cousins is Amnesty International Australia's government relations manager. She will be joining Amnesty's national refugee coordinator Dr Graham Thom to give evidence to the Senate legal and constitutional affairs committee inquiring into the boat payment scandal at hearings on Friday*

<http://www.theguardian.com/commentisfree/2016/feb/05/when-government-officials-tell-us-that-we-dont-need-to-know-we-should-be-wary>

22. Senior officials refuse to answer questions on payments to people smugglers

ABC News Online

By political reporter Stephanie Anderson

First posted Fri 5 Feb 2016, 8:40am

Updated Fri 5 Feb 2016, 9:13am

Senior officials in the Immigration Department and Operation Sovereign Borders (OSB) have refused to answer questions on claims Australian authorities paid people smugglers to turn back a vessel last year.

Indonesian Police last year alleged that Australian officials paid thousands of dollars to people smugglers to take asylum seekers back to Indonesia.

Both Foreign Minister Julie Bishop and former prime minister Tony Abbott denied the claims at the time, but no comment was given today by Commander of OSB Joint Agency Task Force, Major-General Andrew Bottrell.

When questioned on the claims by a Senate committee, Major-General Bottrell said he was unable to either confirm or deny due to "public interest immunity".

"Any and all engagement that we undertake as part of a return, that may give people smugglers a sense that they have a better understanding of our tactics, will not be discussed today," he said.

Secretary of the Department of Immigration and Border Protection Michael Pezzullo also refused to either confirm or deny the claims.

"We're just not commenting on it today," he said.

An Indonesian police chief was last year quoted as saying the six crew members said they had each been given \$US5,000 by Australian officials to turn back.

Their vessel later crashed into a reef near the remote Rote Island.

Major-General Bottrell confirmed some details of the conditions at the time of the alleged incident, describing waves of up to two metres.

He said asylum seekers were kept on deck overnight, as it was easier for potential rescues.

"Life and safety of life was the first concern," he said.

He further confirmed that authorities had engaged in 23 turn-back operations.

<http://www.abc.net.au/news/2016-02-05/officials-refuse-to-answer-questions-on-people-smuggler-payments/7143162>

23. Conflicting stories at cash-for-turnbacks inquiry

Sydney Morning Herald

February 5, 2016 - 7:01PM

Nicole Hasham

The boat was stocked with provisions and the crew was skilled. When Australian officials boarded, the vessel was not in distress, and had not asked for help. Authorities mistreated the passengers, then handed over \$US32,000 (\$A44,500) to make the problem go away.

Or perhaps the boat was in desperate straits and called for help. The weather was rough and forecast to worsen; without help, the occupants may have died. Australian officials boarded and kept everyone safe. Money may or may not have changed hands.

These are two conflicting accounts by asylum seekers and the government of what occurred on the high seas in May last year, when passengers and Indonesian police claim Australian officials bribed the crew of a boat of asylum seekers to return to Indonesia.

The reports were scrutinised at a Senate hearing on Friday. The government does not deny it made the alleged payments, which would have involved taxpayer money funding a potentially illegal practice, which critics say would have put lives at risk.

Immigration Minister Peter Dutton has claimed "public interest immunity" and refused to provide information about the alleged payments to the inquiry.

Government senators Dean Smith and Ian Macdonald on Friday suggested there was a lack of definitive evidence that the payments occurred, saying the allegations were based on media speculation and an investigation by Amnesty International, the credibility of which they questioned.

Legal experts, including human rights lawyer David Manne, told the hearing that the government was essentially telling the public to "just trust us", leaving the serious allegations unresolved.

"That is a wholly unsatisfactory response," he said.

Amnesty International has called for a Royal Commission into the incident, while Mr Manne suggested a special commission of Parliament could be established, to take confidential evidence.

Immigration Department chief Michael Pezzullo said Operation Sovereign Borders, the taskforce involved in the alleged incident, operated under ministerial direction and took official legal advice.

Labor Senator Katy Gallagher said Parliament was responsible for keeping the Minister accountable, but was being kept in the dark.

"We've got the government talking to the government, taking legal advice from the government, which then advises the government that what the government is doing is in accordance with the government policy," she said.

Stephanie Cousins of Amnesty International said people on board the vessel, believed to include a pregnant woman and children, reported that some were forced to spend a night on the deck of the boat, unprotected, during heavy rain.

She said passengers reported their medication was confiscated and they were denied medical treatment.

Major-General Andrew Bottrell said people were left on the deck because high winds and rough seas meant the boat was at risk of sinking, and passengers would have been easier to rescue if they were above deck. He said they were provided life jackets.

Senator Macdonald questioned Amnesty's evidence that asylum seekers were mistreated.

"You're wanting [people] to believe that Australian servicemen took medicines off these people, bullied them and did all the other things alleged and you call this credible evidence?" he said.

"I'm saying this is the only evidence," Amnesty's Graham Thom said.

Major-General Bottrell said officials acted within the law and "I refute quite strongly any suggestion [authorities] would take any action that would knowingly put the lives of any of these people in harm's way".

The inquiry is due to report on March 15.

<http://www.smh.com.au/federal-politics/political-news/conflicting-stories-at-cashforturnbacks-inquiry-20160205-gmmmku.html>

24. Asylum seekers: 23 vessels turned back but Coalition stays silent on payments

Directive from Peter Dutton that information be covered by public interest immunity means many questions remain unanswered during Senate inquiry

The Guardian
Shalailah Medhora
Friday 5 February 2016 15.52 AEDT

Border force officials have confirmed that the agency has turned back 23 vessels since Operation Sovereign Borders began, but they decline to say whether immigration officials paid people smugglers to reroute vessels.

The commander of the operation, Maj Gen Andrew Bottrell, and the head of the department of immigration (which oversees border force), Michael Pezzullo, fronted a Senate committee on Friday to answer questions about claims Australian officials had paid people smugglers to turn their vessels back to Indonesia in May 2015.

It is alleged officials paid people smugglers a total of \$US32,000 to reroute asylum seekers from their destination, New Zealand, back to their point of departure.

A directive from the immigration minister, Peter Dutton, that the information be covered by public interest immunity meant that neither Pezzullo nor Bottrell would answer any of the numerous questions put by senators relating to the alleged payments.

“We are neither confirming nor denying it. We’re not commenting on it,” Pezzullo said. “We have no comment on that. At all.”

He allayed concerns that Australia had acted beyond the scope of domestic and international law, but would not provide specifics, saying senators would just have to take his word on the matter.

The Labor senator Katy Gallagher expressed frustration at the committee’s inability to extract answers from the senior immigration officials, saying it was hindering the parliament’s ability to keep government accountable.

“The parliament isn’t being kept informed, so how can we do our job?” she asked.

Bottrell said any information “that may give people smugglers a better understanding of our operations will not be discussed.”

“We have information superiority over the people smugglers,” he said. “It is my intention to keep it that way.”

He did reveal that 23 vessels had been involved in return operations, including boat turnbacks, since the Coalition came to power in September 2013.

“There remains a persistent number of attempts, all of which have failed over the last year and a half,” he said.

Turning boats around where it is safe to do so is the cornerstone of the government’s Operation Sovereign Borders policy, and has contributed to the oft-touted claims that the Coalition has managed to stop the asylum boats.

The Greens senator Sarah Hanson-Young said the revelation that 23 return operations had been conducted proved people were still making the journey to Australia by boat.

“Turnbacks are happening on a regular basis,” Hanson-Young said. “It really begs the question: have the boats stopped? Well according to the head of Operation Sovereign Borders, no they haven’t. They’re being turned around, but they haven’t stopped coming here.”

Neither Bottrell nor Pezzullo would be drawn on the methods used to turn back the boats, saying the information was operationally sensitive.

Amnesty International had conducted an investigation into allegations people smugglers had been paid to send vessels back, soon after they emerged in June last year.

The final report into the matter was presented to the government in October, and took into account evidence from the 62 adult asylum seekers aboard a vessel that had been turned back, the boat’s crew, Indonesian police, Customs and government officials. The human rights organisation also saw the cash that allegedly exchanged hands.

The document found that the boat containing 65 asylum seekers from Myanmar, Bangladesh and Sri Lanka had left Indonesia in May, bound for New Zealand. It was intercepted in international waters by Australian authorities, who transferred the asylum seekers on to two smaller vessels and sent them to Rote Island in Indonesia.

The asylum seekers made several claims against Australian authorities, including that they had been forced to wait overnight on the deck of their original boat, which was bigger and in better condition than the two smaller ones they were transferred to, and that authorities took medicines off them.

Bottrell denied any wrongdoing by Operation Sovereign Borders staff.

“I strongly reject any suggestion that we would or have put anyone in harm’s way,” he said.

But he confirmed the asylum seekers had been housed on the deck of their original boat during rough weather.

“Yes, that did occur,” he told the committee. “We provided them with lifejackets.”

Bottrell said the vessel was in bad shape and the asylum seekers were kept on deck because it would have been easier to rescue them from there if the boat was in distress.

“The safety of individuals was our first concern,” he said.

Australian authorities provided assistance to the vessel after a request from the vessel's master, Bottrell said. Authorities had been aware of the vessel's trajectory and the condition it was in, he said.

The account conflicts with what Amnesty had in its report.

"All of the people we interviewed denied that they were in distress," the refugee coordinator of Amnesty International Australia, Graham Thom, told the committee.

The LNP senator Ian Macdonald asked: "You're taking the word of people who paid people smugglers over the word of [highly-regarded] Australian service personnel?"

Thom replied: "That is the only evidence available."

He said Amnesty was "deeply concerned" that the secrecy over the incident had ensured it remained "out of sight, out of mind", and reiterated that a royal commission was needed.

Two inquiries into what happened are in progress. The first, by the Australian federal police, looks at whether payments were made to people smugglers, and the second, by the border force, investigates claims of ill-treatment by its staff.

Hanson-Young wants both inquiries to be made public upon completion.

"It's just not acceptable that the government has not been upfront about this," she said. "\$32,000 worth of cash came from somewhere. There's no ATMs floating out on the high seas."

<http://www.theguardian.com/australia-news/2016/feb/05/asylum-seekers-23-vessels-turned-back-but-coalition-stays-silent-on-payments>

25. Complementary protection changes akin to using 'hammer to crack a lentil' - lawyer

Sydney Morning Herald
February 5, 2016 - 6:10PM
Jane Lee

Australia risks returning asylum seekers to countries where they face torture, family violence and honour killings under planned reforms, lawyers say.

Asylum seekers who are not found to be refugees can still qualify for a complementary protection visa if they can prove they face a significant risk of harm if they are returned to their country of origin.

The Turnbull government plans to restrict complementary protection to those who face harm in all parts of their country, under a bill introduced last year. If passed, decision-makers would no longer be able to consider if it is "reasonable" for the person to relocate to another part of the country.

People from countries with a criminal law and an effective police force would also be excluded from complementary protection. These changes are in line with the narrowed criteria for refugees, which became law late last year.

A number of lawyers, including refugee advocates, told a Senate inquiry on Thursday that if passed, more people would be returned to harm.

Immigration Minister Peter Dutton has previously told Parliament that the changes were needed, citing cases where protection had been extended to people involved in serious crimes in their home countries, such as selling adult movies or supplying alcohol, and those who had fled to Australia because of links to criminal gangs.

Lawyer, Dr Sarah Pritchard, SC, said this was only a small part of protection claims, which already carried a high legal threshold, and likened the changes to "using a hammer to crack a lentil."

Dr Pritchard, chair of the Law Council of Australia's national human rights committee, said complementary protection was a safety net for asylum seekers who were not refugees, but risked the death penalty, torture, honour killings and domestic violence in their home countries.

If the criteria for complementary protection became near-identical to that of refugee protection, it would become "obsolete," she said.

President of the Human Rights Commission, Professor Gillian Triggs, said the changes would exclude more from complementary protection: "We expect there will be much higher levels of rejection of assessment for refugees. Therefore it will be more important to them that complementary provisions remain in place."

Australia has granted about 200 asylum seekers complementary protection since 2012, immigration officials told the inquiry.

David Wilden, first assistant secretary at the Department of Immigration, said that the bill would not return more asylum seekers to harm. The changes would clarify the law, he said, because the courts had broadened the idea of whether it was "reasonable" to expect someone to relocate to avoid harm to include financial hardship, beyond Australian's obligations under international law.

Decision-makers were also trained to consider whether it was safe and legal to return an asylum seeker to their country, though they were not legally bound to do so under the proposed changes.

<http://www.smh.com.au/federal-politics/political-news/complementary-protection-changes-akin-to-using-hammer-to-crack-a-lentil--lawyer-20160205-gmn14h.html>

26. Mental health of children in Darwin's immigration detention centre 'worst paediatrician has ever seen'

ABC News Online

By Katherine Gregory

First posted Wed 3 Feb 2016, 4:42pm

Updated Wed 3 Feb 2016, 4:49pm

A Darwin paediatrician says children held in the city's immigration detention centre have the worst mental health problems he has ever seen.

More than 50 of the 70 children who are at risk of being forcibly sent to Nauru are being held in Darwin's Wickham Point Detention Centre.

Doctor Josh Francis said many of the children were terrified at the prospect of being sent to the island and the removal would exacerbate existing mental and physical health problems.

"One of the devastating things about living in detention in the current climate is they [the children] don't have any hope," Dr Francis said.

"And we're seeing children suffer significant mental health problems because of that lack of hope.

"Their parents feel helpless and hopeless and something like this High Court ruling is something they were sweating on, waiting for, hoping it would be an opportunity for them.

"So having that dashed ... their last hope for a good outcome has been taken away from them."

Dr Francis said he had seen many children with depression and anxiety.

He also saw one seven-year-old girl who had attempted suicide, and drawn pictures of her own funeral.

"A seven-year-old girl with the clarity of mind to even think this situation is so hopeless that I want to end my life ... is so shocking and absolutely devastating," Dr Francis said.

"Not only does she think like this on this occasion, but it's a pervasive theme for her thinking of death and dying that comes out ... in her thinking, talking and the pictures she draws."

Mental health of child detainees the 'worst of any patient group'

Dr Francis said it was just one example of the severity of mental health problems among children in detention, which is far worse than any other patient group he has dealt with.

"It's beyond anything I've experienced as a paediatrician. The mental health problems we see here are more severe than the ones that we'd see in other refugee populations that have been settled in Australia," he said.

Dr Francis said many of the older children in detention would be returning to Nauru, a place they fear. "Some of these kids are some of the most worldly and wise children, they've experienced so much in their lives already. And for many of them, they've experienced what it's like in Nauru and they're terrified," he said.

"They've seen people try to starve themselves, seen people try to hang themselves, seen the stress and depression that occurs among the adults they live amongst in Nauru. "They know it's worse in Nauru than it is here in Australia."

<http://www.abc.net.au/news/2016-02-03/mental-health-children-detention-darwin/7137858>

27. MEDIA RELEASE: Prolonged Darwin hunger strike highlights govt visa contradictions

Tuesday February 2, 2016
Refugee Action Coalition
Ian Rintoul
mobile 0417 275 713

Refugee advocates are increasingly concerned for the welfare of a Bengali asylum seeker in Wickham Point, Darwin, has been on hunger strike for 52 days.

The 37 year-old asylum seeker who arrived in Australia on 15 June, 2013 has not had his claim for asylum processed in over 31 months.

After being transferred from Christmas Island to Wickham Point in August 2013, the Bengali man was told he would be granted a bridging visa, but nothing has happened since then.

The Bengali man has also been assaulted on 5 January by Serco guards when they transferred him from Shark to Sun Compound in an attempt to isolate his hunger strike protest.

He was returned to Shark compound on 7 January. An official complaint has been made regarding the assault.

The Bengali man's hunger strike is a continuation of the hunger strike protests in Darwin of 18 Bangladeshis in December who had not been processed although some had been in detention for three years.

"There is no excuse for being detained for 31 months. The deliberate bureaucratic delays are a form of torture," said Ian Rintoul, spokesperson for the Refugee Action Coalition. "This hunger strike exposes the government mindset that is behind the recent reports of record levels of long term detention in Australian detention centres.

"It is simply a lack of political will and the ruthless determination to make an example of asylum seekers who arrive by boat."

For more information, contact Ian Rintoul 0417 275 713

28. Man who illegally helped family come to Australia from Iraq faced 'intense pressure' from relatives, court told

ABC News Online
By Karen Percy
Posted Mon 1 Feb 2016, 12:43pm

A Melbourne man who pleaded guilty to illegally assisting three of his family members to come to Australia from Iraq in 2011 and 2012 faced "pressure" from relatives to help and will not be jailed, a court has been told.

Wasim Buka, 45, of Lalor pleaded guilty to two charges of facilitating people smuggling in Victoria's County Court.

The prosecution said Iraqi-born Buka, who is now an Australian citizen, provided money and arranged accommodation and other support for relatives who were trying to seek asylum in Australia.

But his lawyer, Michael Cahill, argued Buka was not a people smuggler and was simply assisting his family.

"This is an exceptional case, there are no other matters like it," Mr Cahill said.

"It's extraordinary because of the moral dilemma that was confronting this man in his unique circumstances."

The court heard Buka had been pressured by other members of his family to assist his niece, Hiba Adnan Almayahi, and her husband, Abdul Rahman Al Jadiri, get to Australia.

The prosecution provided details of the couple's time in Indonesia while they were waiting to board a boat to Australia.

Buka was said to have provided \$4,200 for each of them, sent via money transfers from Australia. The pair boarded a boat on December 5, 2011.

"We are in the ship ... yes we have been on the ship for about half an hour," Mr Al Jadiri was said to have told Buka in an intercepted telephone call.

Buka 'acted for family, not profit': lawyer

Court documents revealed the ship they boarded, dubbed SIEV (Suspected Illegal Entry Vessel) 287 by Australian Immigration authorities, was intercepted near Christmas Island on December 6.

He also assisted another relative, Mohammed Karim, by arranging accommodation and money transfers in Malaysia in November 2011.

Mohammed was taken to Indonesia where he later boarded SIEV 299, which was intercepted near Christmas Island on January 19, 2012.

Defence lawyers said Buka, an asylum seeker from Iraq who arrived in Australia in 2000, was under extraordinary pressure to assist other members of his family.

They argued intercepted telephone calls revealed he was only acting for his family and not for profit.

"It is family talking," Mr Cahill told the court of the numerous intercepted telephone calls relied on by the prosecution.

"He's here in Australia speaking particularly to his niece in Indonesia trying to get assistance for her in Indonesia.

"It's not running a commercial people smuggling operation for profit ... they are family members talking to each other."

Judge Felicity Hampel will determine what penalty to impose on Buka, who faces a possible 10-year jail term for each charge.

After assisting his niece, Judge Hampel acknowledged, it was hard for Buka not to support Mohammed Karim's journey.

"It was very hard in his position to say no to Karim," she said.

People smuggling must be deterred, prosecution argues

Judge Hampel sought guidance from prosecution and defence lawyers on how to weigh up sentencing considerations against Buka.

"You've been granted asylum, you've got a protection visa then Australian citizenship, but you risk going to jail if you reach out and help other family members in the same position. That's really this case isn't it?" she said.

"Those who've survived the perilous journey and proved their right to seek asylum must be deterred from extending the hand of good fortune to others in the same fate."

Mr Cahill said his client had suffered since he was arrested in 2012.

"He has been severely mentally affected by the prosecution process and the delay of four years," he told the judge.

But Commonwealth prosecutor Catherine Fitzgerald told the court "there has been no remorse".

"Regardless of his motivation, the effect of his conduct, it has contributed to the people-smuggling trade," she said.

"And it must be deterred and the imposition of serious sentences for this conduct will contribute to that deterrence."

Judge Hampel told Buka he would not be going to jail when she sentences him next week.

"I'm sorry for the further delay before you are sentenced," she said.

"But let me reassure you, I will not be sending you to jail next Wednesday."

<http://www.abc.net.au/news/2016-02-01/wasim-buka-iraqi-people-smuggler-faced-family-pressures-court/7129998>

29. Fazel Chegeni's Australia: Why did a refugee spend his last days in detention?

ABC Radio CAF - Background Briefing

Ann Arnold

Thursday 28 January 2016 5:45PM

Late last year Iranian asylum seeker Fazel Chegeni Nejad was found dead outside the perimeter fence of the Christmas Island Immigration Detention Centre. Fazel—whose claim for refugee status had been accepted by Australian authorities—had been brutally tortured by the Iranian regime, and was terribly ill. So why did he spend his last 1,000 days in detention?

See and hear full story at <http://www.abc.net.au/radionational/programs/backgroundbriefing/fazels-australia-why-were-refugees-last-days-in-detention/7013304>

30. Ann Arnold: Fazel Chegeni's death and the truth of our detention system

ABC The Drum

By Ann Arnold

First posted Tue 2 Feb 2016, 6:56am

Updated Tue 2 Feb 2016, 9:13am

The story of Fazel Chegeni's journey from Iran to Australia reveals much about our detention system, how the courts operate, and what fate awaits many who make the perilous journey, writes Ann Arnold.

Sometimes in journalism the bits you leave out tell a different story. Abandoned for reasons of narrative or space, together they paint a more textured picture.

When asylum seeker Fazel Chegeni was waiting in Indonesia for a boat to Australia, in 2011, his friend Mansour* got sick. Both were Fali Kurds from Iran, but met for the first time outside Jakarta, where a people smuggler had established multiple groups in different houses. They had little money, especially Fazel, who had been robbed by a previous smuggler.

Fazel found food and made soup for his sick friend. "He go to doctor, find medicine. Exactly like brother, exactly like mum, exactly like dad. Then I understand he very, very good heart."

When the day came for their voyage, about 40-50 Iranian, Afghan and Iraqi people were told to meet at a hotel in Jakarta. They had to stay hidden in rooms all day. At night, they piled into vans with darkened windows and were driven several hours to the coast. They were hurried into very small boats. There was panic and pressure, and Mansour lost Fazel. He called out to him in the dark – "Where are you? Where are you?" - and relaxed when Fazel answered from another boat.

After some hours they came to the bigger (but still much too small) fishing boat that would take them all to Australia. After a day or so it broke down. The back of the boat was going under water. The Indonesian boat operator ordered everyone to the front. Fazel worked with two other men to bail out the water, and they got the engine started.

Then the captain lost his satellite phone, but navigated successfully from experience. Once in Australian waters, they were picked up by the Australian Navy. For Mansour and Fazel, it was a shock to be treated with care and courtesy by uniformed officers. As stateless minority outcasts in Iran, they had both been maltreated by Iranian police.

At the Christmas Island processing centre, there was a phone card tradition. Mosi, another friend, had arrived several days before Fazel, and when Fazel was in the holding area for the newest arrivals he handed him his phone card, through a cyclone fence. Fazel must use it to ring his family to say he arrived, Mosi told him, then if there is any credit left, pass it on to someone who arrives next.

Mosi is telling me this in a Persian restaurant in an Australian capital city. He is a smartly dressed and urbane man in his late 20s, doing well with a small business in the construction industry. Only four years after landing as an IMA – Illegal Maritime Arrival – and being accepted as a refugee, he has holidays in Bali and elsewhere.

While we talk, he gets a Skype call from his family in Iran. His baby niece is visiting his parents. He coo-coos with her. I wave to them. It seems surreal. He refuses to talk about what happened to him in Iran, or his own boat journey, other than: "It was disgusting." He's trying to push the past away.

I meet other Iranian refugees who have been working for several years at a particular business, but don't tell their colleagues their history. "People judge us for coming on a boat." If anyone asks, they say they came by plane. Their colleagues have no idea what they've been through. The politics of boat arrivals will have a long legacy.

Other refugees at various stages of the immigration process live in fear, of getting something wrong, of offending "Immigration". Rumours abound of people being locked up for forgetting to renew their visas, or other misdemeanours.

For Fazel Chegeni, there would be no problems integrating in Australian society. He never got the chance. Months after arriving in Australia, Fazel was involved in a brief brawl in the Curtin Detention Centre canteen, in which no one was seriously hurt. The CCTV footage can be seen on Background Briefing's interactive map.

Fazel and four other Iranians were charged with assault over this brawl. A law change earlier that year, in 2011, meant a conviction would result in failing the character test, and there would be no release from detention, no visa.

An Australian Senate legal briefing in 2011 warned that tightening the Immigration Act character test, to include all offences committed in detention, would impact minor offenders. Parliament passed the Bill anyway.

There is a photo of Fazel and his co-accused looking like a happy group at a work conference, in cheap suits outside the Perth Magistrate's Court in September 2013. (It has taken three years for this to get to court.) Just before the photo was taken,

they had changed their pleas to guilty, and they were optimistic that the magistrate, Barbara Lane, would reward them for that. It is one of the few occasions they had been out of detention in Australia, and the sky was blue.

But the magistrate convicted all five, sentencing each to six months imprisonment. Fazel would never be released from detention. Magistrate Lane cited the need for good order in detention centres, and deterrence. She said she was aware of the consequences of a conviction; that is, failure of the character test. But, she said in her sentencing remarks, it was not her role to pre-empt any subsequent responses from "the executive".

Later that year, when a senior Immigration Department officer wrote to then minister Scott Morrison, asking him to consider releasing this group, and six other people convicted of offences while in detention, the bureaucrat evoked the political context. A move to community detention may "alleviate the concerns of public scrutiny bodies such as the Commonwealth Ombudsman's office and the Australian Human Rights Commission". The minister declined to release the group.

When Fazel Chegeni died on Christmas Island in November last year, having somehow escaped, he died stateless in two countries: in Iran, and in Australia, whose laws over-rode his refugee status and left him rejected, in the no-man's land of detention centres.

* Some names have been changed to protect identities.

The repeat broadcast of Why did Fazel Chegeni Nejad Have to Die? can be heard at 9pm Tuesday on Radio National and the podcast is available now.

<http://www.abc.net.au/news/2016-02-02/arnold-fazel-chegeni-and-the-truth-of-our-detention-system/7132068>