

Project SafeCom News and Updates

Monday, 12 October 2015

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1. Australia's offshore processing policy to be examined by High Court in Canberra

ABC News Online

By Elizabeth Byrne

First posted Wed 7 Oct 2015, 3:35am

Updated Wed 7 Oct 2015, 3:45am

The future of Australia's offshore detention regime will be under the spotlight in the High Court of Australia in Canberra today.

Lawyers for a Bangladeshi woman will argue it was illegal for the Australian Government to operate and pay for offshore detention in a third country.

If the court agrees the whole offshore detention regime could be invalid.

Nauru announced on Monday it would end detention and process refugee applications for the remaining 600 asylum seekers by the end of the week.

But the Australian and Nauruan governments deny the move had anything to do with the imminent High Court hearing.

Human Rights Law Centre's director of legal advocacy Daniel Webb said the changes to the detention arrangements on Nauru would "be one of the issues before the court".

He said the case was being run on behalf of the Bangladeshi woman who was brought to Australia due to a serious deterioration in her health during the late stages of pregnancy and "who was now facing imminent return to Nauru with her 10-month-old baby".

"This is the lead case linked to a series of challenges being run on behalf of more than 200 people in similar situations who have been brought to Australia from Nauru and Manus," Mr Webb said.

"They include men subjected to serious violence on Manus, women who've been sexually assaulted on Nauru and over 50 children, including 23 babies."

The High Court is expected to hear the argument that the woman's return and continued detention at Nauru would be illegal because Australian laws set up to support the offshore program were unconstitutional.

The case centres around whether the Government has the power to spend on large programs without parliamentary approval.

In June the Government passed changes to the Migration Act with the support of the Opposition to close a loophole it feared would see the High Court declare the entire system illegal.

The issue of parliamentary approval for funds for major policies was brought to light by the earlier school chaplains case where the High Court ruled large sums could not be allocated to programs without parliamentary approval.

The Government had to make new laws to ensure funding for a raft of its programs.

Lawyers for the woman said they would challenge the new law as part of their case.

The court will hear there is no constitutional power supporting the arrangement where the Government can send people offshore to be detained in a third country.

But the Government said the law was supported by several parts of the constitution, including the aliens power and the external affairs power.

The Human Rights Law Centre said it had commenced legal action for more than 200 people who have been brought to Australia for medical treatment but were now facing forcible removal to Nauru.

While the legal issues are being contested, the Federal Government has promised not to return any of them without notice.

<http://www.abc.net.au/news/2015-10-07/australian-offshore-processing-to-be-examined-by-high-court/6828464>

2. Offshore detention high court challenge to look at Australia's rush to change laws

Canberra hearing expected to focus on constitutionality of funding of regional detention centres on Nauru and Manus Island

The Guardian

Daniel Hurst Political correspondent

Wednesday 7 October 2015 11.24 AEDT

The federal government's rushed changes to the law to fortify offshore detention would be "the subject of much discussion" in a high court hearing beginning on Wednesday, according to an advocate for the asylum seeker bringing the challenge.

The hearing in Canberra – set down for two days – was expected to focus on the constitutionality of the federal government's funding of regional detention centres on Nauru and Manus Island.

The Human Rights Law Centre is bringing a series of challenges on behalf of more than 200 people who have been brought to Australia from Nauru and Manus – often for medical treatment or to have a baby – and are now facing return to the regional centres.

The centre's director of legal advocacy, Daniel Webb, described the circumstances of the Bangladeshi woman in the lead case. "The case that is before the court today is being run on behalf of an incredibly vulnerable woman," he told reporters outside the high court.

"She has been detained on Nauru previously and she has been brought back to Australia for urgent medical treatment. This woman has a 10-month-old baby daughter. She is terrified that her and her baby daughter will be sent back to an offshore environment that has already caused her a great deal of harm."

Webb welcomed the move towards having an open centre on Nauru, saying the court case appeared to be the catalyst for the newly announced change. But he said the shift did not affect the "fundamental justice" inherent in the system of leaving people languishing indefinitely in offshore detention.

Asked whether the federal government's retrospective changes to the Migration Act in June weakened the case, Webb said the question before the court now was whether that was a constitutionally valid law. The Labor party supported the rushed bill.

"I daresay the effect of the changes on the case will be subject of much discussion," Webb said. "The case looks at the risk of future detention but it also examines the lawfulness of past detention."

"Irrespective of these changes, there remain important and untested constitutional questions about the power of the Australian government to pay and to control the detention of innocent people in other countries."

Webb said Australian law clearly gave the government some power to detain people in Australia and remove people from the country "but it is an altogether different thing to fund and control the detention of those people in other countries. It is that funding and that detention that this case challenges."

He said the challenge was linked to about 200 other cases, for which almost identical cases had been filed. The lead case was being heard first, and would have implications for the others. The other 200 people remained in Australia at present, Webb said.

On the eve of the hearing, Guardian Australia revealed that an email sent in June showed a government official was worried about more asylum seekers joining the case and urged the return of people to Manus and Nauru "as soon as possible".

The treasurer, Scott Morrison, who was the architect of the government's Operation Sovereign Borders policy when he held the immigration portfolio, said the Coalition's hardline measures worked.

"Our border protection regime has been incredibly successful," he told ABC Radio on Wednesday. "It's saved lives, it's ended the terrible cost that was being incurred, and has restored integrity to our refugee and humanitarian program."

"They are all important outcomes and anything that would put that at risk would greatly concern me and, I think, greatly concern many Australians."

"There will always be more work to do, and I commend [immigration minister] Peter Dutton for the job he's done in continuing that program, but ... we have a border protection regime which ended the deaths, and I don't want to see that happen again."

<http://www.theguardian.com/australia-news/2015/oct/07/offshore-detention-high-court-challenge-to-look-at-australias-rush-to-change-laws>

3. Return asylum seekers to offshore detention 'as soon as possible', officials urged

Email sent by immigration staff reveals fears that asylum seekers temporarily on mainland could join high court legal challenge

The Guardian
Daniel Hurst Political correspondent

Tuesday 6 October 2015 20.30 AEDT

Australian immigration officials were worried about more asylum seekers joining a high court legal challenge and called for the return of as many people to Manus Island and Nauru “as soon as possible”, an internal email reveals.

The email, which was obtained by the Human Rights Law Centre (HRLC) under freedom of information laws, can be revealed on the eve of a high court hearing about the constitutionality of the federal government’s funding of regional detention centres.

The HRLC is bringing a series of challenges on behalf of more than 200 people who have been brought to Australia from Nauru and Manus – often for medical treatment or to have a baby – and are now facing return to the regional centres.

The document the HRLC obtained under FOI is believed to be from the file of a man from Syria who was brought to Australia from Manus for urgent medical treatment.

The 30 June 2015 email, written by an officer in the removals injunctions section of the legal division of the immigration and border protection portfolio, noted that there were “now 57 transitory persons affected by this litigation”.

It said parliament had passed a bill the previous week “which everyone seems to think will put beyond doubt that the commonwealth has a legislative basis to fund its activities in Nauru and Manus”.

“The amendment will not ‘solve’ the litigation, as there are other issues in it. The amendment merely makes our position stronger in some areas,” the email said.

“At this stage it is envisaged that the high court will hear two of the cases in October 2015. We would expect that judgment will be reserved. So, at a guess, we might expect a judgment around December 2015 (but it could easily be as early as November or as late as February/March 2016). This is likely to cause problems with being able to return transitory persons, as more and more plaintiffs join the litigation. It is therefore important to return as many transitory persons as well [sic] can, as soon as possible.”

The email appears to refer to the prospect of returning people to Nauru or Manus before they also join the legal action.

The HRLC’s director of legal advocacy, Daniel Webb, said these were people whom the government had identified as having suffered serious harm in offshore detention and needing urgent treatment in Australia.

“These are incredibly vulnerable people, not pawns on a chess board to be manoeuvred for tactical advantage,” Webb told Guardian Australia. “Decisions affecting them should be made based on their health, wellbeing and safety, nothing else.”

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

The case to be heard in the high court in Canberra on Wednesday and Thursday relates to a woman from Bangladesh who was brought from Nauru to Australia due to health issues during the late stages of pregnancy, and is now facing return to the island with her 10-month-old baby.

The court will consider whether the government has the power to take people present in Australia to another country “so as to subject them to extra-judicial, extra-territorial detention which is funded, caused and effectively controlled by the commonwealth”, according to the plaintiff’s submission to the court.

Pamela Curr, a refugee rights advocate from the Asylum Seeker Resource Centre, said the people held in Melbourne, Brisbane and Darwin were vulnerable and it would “be a tragedy” if the high court challenge failed.

Curr said the email showed the government would “do anything” to stop people from seeking legal advice.

“They are moved around to fulfil policy wishes with no concern to their state of health, their state of mind, or the consequences of sending them back to Nauru,” she said.

The Nauruan government announced on Monday that it would process all remaining refugee claims – about 600 in total – within the next week and would also allow asylum seekers to move freely about the island 24 hours a day.

Dutton welcomed the moves, but played down any link to the forthcoming high court case.

Full story at <http://www.theguardian.com/australia-news/2015/oct/06/return-asylum-seekers-to-offshore-detention-as-soon-as-possible-urged-officials>

4. Nauru to process all asylum seekers 'within week', refugees to assess applicants

Nauru to process all asylum seekers in offshore detention centre 'within the next week'; refugees among those to assess applications

ABC News Online

By political reporters Anna Henderson and Stephanie Anderson

First posted Mon 5 Oct 2015, 10:33am

Updated Mon 5 Oct 2015, 12:47pm

Refugees will be among those helping to process the remaining 600 asylum seekers in the Nauru immigration detention centre over the coming week, the Nauruan government says.

Nauru's government has promised to process all asylum seekers in its offshore detention centre still awaiting an outcome on their application for refugee status "within the next week".

Australia reopened the camp in 2012 to deal with the influx of asylum seekers trying to reach Australia by boat, and in response to reports of hundreds of deaths at sea.

The Nauruan government will more than double the number of staff involved in processing claims to 320, to deal with the week-long timeframe.

Community liaison officers, including 30 people who have already been granted refugee status, will process the asylum seekers.

Nauru has also announced the centre will become an "open" facility 24 hours a day from today.

It means detainees will be free to move around the island.

Nauru's justice minister David Adeang confirmed the Australian Government would provide support with "safety, security and law enforcement".

This will include increased assistance from Australian police, as well as increased health care and overseas medical referrals.

Comment has been sought from Immigration Minister Peter Dutton.

Mr Adeang said his government had been working towards a "more compassionate program" for a long time and had been waiting on confirmation of assistance from the Australian Government.

"The start of detention-free processing is a landmark day for Nauru," he said.

The decision comes just days before a legal challenge examining the Australian Government's role in the centre's operation.

The full bench of the High Court is scheduled to hear a challenge to the lawfulness of the Government's role in offshore detention on Nauru on Wednesday and Thursday, according to the Human Rights Law Centre's director of legal advocacy Daniel Webb.

The president of the Refugee Council, Phil Glendenning, said the hearings may have "provided some sort of impetus" for the development.

Mr Glendenning told the ABC he held grave concerns for the safety of asylum seekers if they remained on Nauru, adding that the Australian Government had a "very serious" responsibility to ensure their safety.

"For all intents and purposes, Australia is the architect of this," he said.

Processing timeframe 'a recipe for anarchy and violence'

Independent MP Andrew Wilkie has questioned Nauru's capacity to stand by its committed timeframe, labelling it "a recipe for anarchy and violence".

In a statement, Mr Wilkie said the Australian Government should bring detainees to Australia for processing instead of leaving them on Nauru.

"How on Earth can they do it legally and humanely with 600 people in just a week?" Mr Wilkie said.

"There is no way the Nauru government would do this without the encouragement and imprimatur of the Australian Government. The Republic of Nauru is virtually a failed state and the government only survives with the benefit of Australian financial and other assistance."

The developments will also see additional lifeguards on patrol on Nauru, to assist refugee families.

This follows deaths and injuries to refugees who were released from the island's centre but were unable to swim.

Save the Children has welcomed the decision and urged the Australian Government to identify sustainable third country resettlement options for refugees whose claims are successfully processed.

A statement issued by the aid agency, which has provided services at the centre since 2013, said that countries needed to have a proven track record in providing adequate services for refugees.

"Now, more than ever, a permanent and sustainable solution is needed to provide clarity and a sense of hope for the future for those on Nauru," Save the Children acting chief executive Mat Tinkler said.

The changes come three years after the first asylum seekers — 30 Sri Lankan men — were transferred to Nauru after the centre was reopened by the Gillard government.

The Rudd government had previously dismantled the Pacific Solution in 2008, seven years after the concept was introduced by former prime minister John Howard.

<http://www.abc.net.au/news/2015-10-05/asylum-seekers-on-nauru-to-be-processed-within-the-next-week/6828130>

5. Nauru government says 600 refugee claims to be processed in a week

Sydney Morning Herald
October 5, 2015 - 1:52PM
Nicole Hasham

The Nauruan government says it intends to process the refugee claims of 600 asylum seekers on the island within a week, saying "detention has ended" on Nauru.

As Fairfax Media reported on Sunday, the Australian-funded detention centre will become an "open centre" 24 hours a day from Monday.

In a surprise move, Justice Minister David Adeang said on Monday the government intended to process about 600 remaining refugee claims "within the next week".

Fairfax Media has sought detail on how this would be achieved, and how the Nauruan government will ensure claims are properly assessed.

Nauru announced the transition to an "open centre" last November and since then, detainees have been able to move freely outside the centre between 6am and 6pm.

A press release issued by the Nauru government on Monday said "detention had ended", however a government spokesman later clarified that the detention centre would remain open.

All restrictions have now been lifted but detainees will still eat, sleep and receive medical services at the centre.

"The start of detention-free processing is a landmark day for Nauru and represents an even more compassionate program, which was always the intention of our government," Mr Adeang said.

The government pledged to appoint more lifeguards on the island "as swimming and other water sports are popular with refugee families, particularly at the local boat harbour".

To ensure asylum seekers are integrated into the community safely and cohesively, the government said it has increased the number of community liaison officers from 135 to 320, which includes 30 refugees.

Mr Adeang said the Australian government would support Nauru with "safety, security and law enforcement", including providing more help from Australian police.

As Fairfax Media has reported, there have been numerous incidents of refugees living on the island being attacked at Nauru, and refugee advocates say many are too scared to leave the detention centre, despite being allowed to.

The latest Immigration Department statistics show there are still 653 asylum seekers in the regional processing centre on Nauru.

As of August 31, there were 446 men, 114 women and 93 children awaiting decisions on their applications for refugee status. Some refugees have been resettled on the island.

Organisations such as Save the Children have campaigned for greater freedom of movement for asylum seekers, saying detention is detrimental, especially for children.

Comment has been sought from the Department of Immigration.

<http://www.smh.com.au/federal-politics/political-news/nauru-government-says-600-refugee-claims-to-be-processed-in-a-week-20151005-gk1dr5.html>

6. Nauru says it will process remaining 600 refugee claims within a week

Advocates link processing announcement and Saturday's pledge to allow asylum seekers free movement on island to Australian high court challenge

The Guardian
Helen Davidson and Daniel Hurst
Monday 5 October 2015 14.58 AEDT

The government of Nauru has announced that it will process all remaining refugee claims – about 600 in total – within the next week, declaring “detention has ended” on the Pacific island.

However the timing – just days before the high court of Australia hears a challenge to the legality of offshore detention – has raised suspicions among legal and refugee advocates.

The release from the country's department of justice and border control follows Saturday's announcement by the Nauruan government that it would allow asylum seekers to move freely about the island 24 hours a day.

Should all detainees be processed in the short time frame announced, it would mark a significant shift on policy from both governments, as previously many asylum seekers have waited for years in detention to have their claims determined.

“The start of detention-free processing is a landmark day for Nauru and represents an even more compassionate program, which was always the intention of our government,” said justice minister David Adeang.

The announcement said the Australian government had promised to provide more assistance with policing and the two governments were working together to provide “suitable ongoing healthcare including overseas medical referral when required”.

In July Guardian Australia revealed all overseas medical transfers of Nauru detainees would go to a private hospital in Port Moresby, Papua New Guinea, after the Australian government stopped allowing them to seek medical care in Australia.

Monday's announcement also promised an increase in the number of community liaison officers “to ensure that asylum seekers are integrated safely and cohesively”.

Repeated concerns have been raised over the conditions in which asylum seekers, including children and pregnant women, are held on Nauru.

It is unclear whether the Australian government requested the change of policy, but it comes just days before a full bench of the high court will hear a challenge to Australia's powers to support offshore detention.

The lead case, brought on behalf of a Bangladeshi woman who is facing transfer back to Nauru with her 10-month-old baby, is linked to hundreds of similar cases around the country.

The Human Rights Law Centre (HRLC) launched the case in May, contending the Australian government had no legal power to fund and facilitate offshore detention.

A last-minute amendment to migration legislation was rushed through parliament in June, passed with the support of Labor, to potentially close the funding loophole, but left open a high court challenge to the constitutionality of the government's role in offshore detention.

The Coalition and Labor also joined forces to vote down Greens' amendments to ensure mandatory reporting of abuse, access for the Human Rights Commission and the media, and a time limit of three months for detention.

The director of legal advocacy at the HRLC, Daniel Webb, questioned the announcement's timing, and said while it was welcome, “letting people go for a walk does not resolve the fundamental problems caused by indefinitely warehousing them on a tiny remote island”.

“The men, women and children on Nauru need a real solution – settlement in a safe place where they can rebuild their lives,” Webb said in a statement. “Instead they’re being left languishing in an environment that is clearly unsafe for women and children.”

Pamela Curr, a refugee rights advocate from the Asylum Seeker Resource Centre, said the move from heavy security to an open policy was probably related to the pending high court hearings.

“It’s taken two years and a high court case for the Australian government and the Nauruan government to come to an agreement about opening up the camp. We believe that the reason that this new rule has come into place is because they’re trying to change the facts before the high court case on Wednesday,” she said.

Curr said she had heard from staff that the refugee applications had been processed, but the decisions were yet to be conveyed to people because of the lack of accommodation on the island. She held “grave concerns” for people’s safety.

“They [Nauru] have got a failed legal system, a failed political system, half their opposition members are either in prison or not allowed to leave the country. Nauru’s a failed state and it’s not a safe environment for a group of vulnerable people,” she said.

Malcolm Turnbull, in one of his first interviews after becoming prime minister, said the plight of asylum seekers and refugees in Australian-run detention centres on Manus Island and Nauru was a “legitimate question” to which the government was paying “close attention”.

Asked about the more than 1,500 people in detention on Nauru and Manus with no clear prospect of resettlement, he told interviewer David Speers: “I have the same concerns about the situation of people on Manus and Nauru as you do, as all Australians do, as the minister, Mr Dutton, does.

“This is an area that clearly is one that is controversial, that is a challenging one, it is certainly one that close attention is being paid to ... I thank you for raising it, it is legitimate to raise it ... but we are not going to make policy changes on the run.”

Four refugees from detention on Nauru have been settled in Cambodia, at a cost of \$55m, but most of those found to be refugees have moved elsewhere on the island. Many of the refugees there have been in detention for more than two years.

The offices of Dutton and the Nauruan government have been contacted for further comment.

<http://www.theguardian.com/australia-news/2015/oct/05/nauru-says-it-will-process-remaining-600-refugee-claims-within-a-week>

7. No change in accommodation for Nauru detainees despite 'end of detention'

Nauruan government says those found to be refugees will be allowed to stay for up to 10 years but can apply to resettle in Cambodia now

The Guardian
Helen Davidson and Paul Farrell
Wednesday 7 October 2015 12.10 AEDT

Asylum seekers and refugees on Nauru have been told there is no change in their living circumstances for now, despite the island nation’s government declaring “the end of detention” this week.

A document used as a guide for staff to answer detainee questions, obtained by Guardian Australia, reveals details of the Nauru government’s plans to open the detention facility and process all 600-odd refugee claims within a week.

The Nauruan government would endeavour to inform all detainees of the outcome of their refugee claim “in the next few days”, it said.

Families would be informed together, so those whose members are receiving medical treatment or who have made additional or complex claims may wait longer.

“The upcoming changes will mean that people found to be refugees will be living alongside people who have not been found to be refugees or who have not yet received a decision,” it said.

“This is no different to your current circumstances.”

People found to be refugees would still live inside the now “open” detention centre, alongside other detainees, until permanent accommodation was built. The first rooms would be available from late October.

The accommodation would have bathrooms and cooking facilities, but single men would be expected to share, as would single women, in accommodation with communal cooking facilities.

The document says refugees will be permitted to stay in Nauru for up to 10 years “pending third country resettlement” but says they can apply to resettle in Cambodia now.

On Monday the Nauruan government declared “detention had ended” after a weekend announcement that detainees would be allowed to move freely about the island at all times. It committed to processing all remaining asylum claims, numbering about 600, within a week.

Lawyers and refugee advocates immediately linked the announcement to the high court challenge being heard in Canberra on Wednesday and Thursday, seeking to contest the constitutionality of Australia’s funding and participation in offshore detention, an assertion dismissed by the immigration minister, Peter Dutton.

The campaign coordinator of the asylum seeker resource centre, Pamela Curr, questioned preparations for the new open policy. She said there were not enough buses to take most people into town each day and they were allowed to take only two small bottles for the two-hour-plus return walk.

The previous day-release policy, which required detainees to apply to their caseworkers weeks in advance and sign documents for police, ended on Tuesday morning, she said, and people were now allowed to leave freely.

Curr stressed the danger of violence aimed at unaccompanied women on Nauru after numerous allegations, including some of sexual assault. A 23-year-old woman who was allegedly raped on Nauru while outside the centre was eventually flown to Australia for medical care in August, three months after the attack.

A Senate inquiry into conditions on Nauru heard many allegations of violence and serious concerns about the care of detainees. But on Tuesday the Nauru government insisted the island was safe for asylum seekers and refugees, and said those moving freely outside the detention facility were in no physical danger.

The justice minister, David Adeang, said Nauru was safer than many countries the asylum seekers had left, and in some ways safer than Australia.

“There is no gun violence in Nauru, people are not dying from domestic violence and our police don’t even have to be armed, so let’s get some perspective into this discussion,” Adeang said.

The document also outlines work rights and phasing in income support for those found to be refugees.

“Once found to be a refugee you can commence working or start your own business,” it said.

But Curr said as Nauruan jobs dwindled with the winding down of the centre, it would become even more difficult for new refugees to find work.

“We’ve got to remember, there was 90% unemployment on Nauru before the camp came,” she said. Some detainees who gained full-time jobs had been the target of violence by locals.

The high court case challenging the legality of Australia’s offshore detention policy began on Wednesday. On Tuesday Guardian Australia revealed an internal immigration email urging “transitory” detainees in Australia be returned to Manus Island and Nauru as soon as possible, amid fears more people would join the court case.

<http://www.theguardian.com/world/2015/oct/07/no-change-in-accommodation-for-nauru-detainees-despite-end-of-detention>

8. Good news for Nauru asylum seekers masks grim reality

The Age
October 5, 2015 - 4:57PM
Michael Gordon

Two welcome developments do not change the grim reality for hundreds of people who sought refuge in Australia but are being warehoused indefinitely on the poor, tiny and sweltering island of Nauru.

The first is that the detention centre that independent agencies assert has operated in breach of international law will now run as an open facility, where inmates are free to come and go as they please.

The second is that 600 asylum seekers who have been waiting more than two years for their protection claims to be decided will have an answer this week.

But a host of logistical questions remain unanswered, including how those afforded refugee status will be housed on an island that has struggled to safely accommodate or employ those already released.

The most likely answer is that most will continue to live in the centre, with little or no capacity to rebuild their lives, give their children a future or reunite with other family members.

The Nauruan government insists it is up to the challenge, with a dramatic increase in the number of community liaison officers who are tasked to help the refugees integrate into the community.

But how can we tell? Until the government is willing to allow independent observers to report on the situation on the ground, it is simply impossible to say whether this confidence is well-founded.

The deeper truth is not addressed by either positive development. It is that those on Nauru remain in limbo, unable to leave but denied the rights of citizenship or those that should come with refugee status. For them, the only change is that the size of the detention centre has expanded.

At some point, whether the trigger is action in the courts or pressure from the public, the Turnbull government will recognise that their situation, like that of those held on Manus Island, is simply not sustainable. Or defensible.

<http://www.theage.com.au/federal-politics/political-opinion/good-news-for-nauru-asylum-seekers-masks-grim-reality-20151005-gk1nea.html>

9. Nauru asylum seeker announcement not related to High Court challenge, Peter Dutton says

ABC-TV - Lateline

By Brigid Andersen

First posted Mon 5 Oct 2015, 8:24pm

Updated Mon 5 Oct 2015, 8:27pm

The announcement that Nauru will process all remaining asylum seekers "within the next week" has nothing to do with an upcoming court case, Immigration Minister Peter Dutton says.

Nauru's government has also moved to make the detention centre an "open" facility, meaning the 600 remaining asylum seekers there can come and go at any time.

Questions have been raised about the timing of the announcement as the full bench of the High Court is scheduled to hear a challenge to the lawfulness of the Government's role in offshore detention on Nauru on Wednesday and Thursday.

Mr Dutton told Lateline the move to open the offshore detention centre and process asylum seekers' claims was not related to the legal challenge.

"It's not just an announcement 48 hours before a court case," he said

"There are High Court cases, court cases, going on all the time between advocates and the Federal Government, between advocates and other parties, and these matters continue to roll through the courts."

The court challenge will for the first time test whether the Government has the constitutional right to participate in the offshore detention of asylum seekers.

Mr Dutton said it was a matter for the court.

"There are legislative aspects and constitutional aspects and the High Court will deal with those aspects as they see fit," he said.

"In relation to the funding arrangements, we thought it prudent to pass legislation and we did that with the support of the Labor Party."

No guarantee for safety on Nauru: Dutton

Mr Dutton said Nauru had been progressively increasing the hours that asylum seekers could come and go from the detention centre and it previously had been open between 9:00am and 9:00pm.

Concerns have been raised about safety on the island, following an ABC report about the rape of a female asylum seeker.

The Federal Government is providing increased police assistance, as well as more staff to process asylum seeker claims.

But Mr Dutton said while the Federal Government did a "significant amount", it could not guarantee the safety of asylum seekers on the island.

"The Australian Government or the Queensland or New South Wales, Victorian governments can't provide you with that guarantee for people coming out into the Australian society," he said.

"The reasonable suggestion is that if people do the wrong thing, if they commit an offence, are they going to be investigated and prosecuted if evidence substantiates a prosecution? Yes, of course."

Asylum seekers returning home 'an issue for them'

Asylum seekers on Nauru granted refugee status have the option of settling there or volunteering to go to Cambodia in agreement with the Cambodian government.

Mr Dutton said four people had been resettled Cambodia and two had been interviewed and "may well be in the process of heading to Cambodia".

But Mr Dutton said if asylum seekers chose to return to their country of origin, including war-torn Syria, it was a decision for them.

Last week, Lateline tracked down Eyad, a Syrian asylum seeker the Federal Government repatriated to his homeland from Manus Island.

Eyad was jailed and tortured for 20 days when he arrived in Damascus, but has since made it back to his village in Daraa province.

Mr Dutton would not comment on Eyad's case, but said the Government's policy was about stopping the people smuggling trade.

"We have said to those people if you sought to come to our country by boat, if you sought illegally to come to our country, you're not going to settle," he said.

"You have seen people drown on the Mediterranean, terrible scenes across Europe.

"If people make a decision they want to return to their place of birth, origin, their place of residence, that is an issue for them."

<http://www.abc.net.au/news/2015-10-05/dutton-says-nauru-announcement-not-related-to-court-case/6829352>

10. Nauru refugee 'release' shows detention and drawn-out processing were never necessary

The Guardian

Joyce Chia

Tuesday 6 October 2015 10.02 AEDT

What are we to make of the news that Nauru has lifted all restrictions of movement on asylum seekers and promised to finalise their refugee claims within a week? Not as much as you'd think, so far as the asylum seekers are concerned.

The facts are these: they were already able to move during the day; they will still be housed in the detention centre (which is a decent bus ride away from anything else on Nauru); and their refugee claims had been determined many months ago, just not rubber-stamped.

More importantly, the basic problems with Nauru haven't changed. Nauru is still unsafe for these people. The public has only just begun to hear the full truth of the sexual and physical abuse that has been suffered by those already recognised by Nauru as refugees. Nauru is also unsafe for gay refugees; homosexuality is still criminalised in Nauru.

Nor does Nauru offer what is known as a "durable solution" – that is, a way for a person to live in dignity and with hope. Instead, it offers a temporary visa in a country where they have few employment or other prospects, and no chance of being reunited with loved ones back home. By now it is very clear that these people have also decided Cambodia doesn't offer a durable solution either.

This week's sudden changes in policy also come suspiciously close to the eve of a Human Rights Law Centre constitutional challenge to detention on Nauru. If by the end of this week these people are no longer being "detained", then at least part of this challenge might fall away.

Such a pattern is all too familiar. One might also ask why these people have been detained for years when, it turns out, neither detention nor the drawn-out processing were necessary.

While nothing much might have happened on the ground, and while I am yet to be convinced that this suggests any real change in government policy, there are some lessons we can learn from this news.

First, if change is possible on Nauru it is also possible on Manus Island. While the current high court challenge involves only Nauru, the principles apply also to Manus Island. The public has heard much less about what is happening on Manus Island recently, not because life there has gotten better, but because it has become harder for anyone to talk to them.

The 936 people we have abandoned on Manus Island now feel, with some justification, that they have been forgotten.

Second, as Nauru embraces "detention-free processing", Australians should ask why our detention system is going the other way. In Australia, detention is becoming more draconian, with over 2,000 people detained and the average detention time now 412 days.

Remarkably, over 20% of these people have been detained for over 730 days. And all of this is completely unnecessary, because there are many alternatives to detention – alternatives that are more effective, more humane and much, much cheaper.

Lastly, we should remember that the only reason these changes have happened is because people who care have not given up making the case. Whether it be the over 20,000 people signing a petition to stop sexual abuse on Nauru, the thousands turning out to Light the Dark vigils, heard about sexual abuse on Nauru through the bravery of victims and whistleblowers, and seen the government through the tireless contribution of lawyers and organisations like the Human Rights Law Centre, together we can make change happen. We are not there yet, but this is no time to give up.

<http://www.theguardian.com/commentisfree/2015/oct/06/nauru-refugee-release-shows-neither-detention-nor-drawn-out-processing-were-ever-necessary>

11. Nauru 'safer than Australia', local justice minister claims

Sydney Morning Herald
October 6, 2015 - 7:40PM
Michael Gordon

Nauru's justice minister has dismissed concerns about the safety of asylum seekers who now are free to come and go at will from the island's detention centre, saying "in some ways Nauru is safer than Australia". David Adeang says refugees in Nauru are in no physical danger and stories of locals attacking them are "largely fabricated" to further political agendas and influence the Australian government.

"There is no gun violence in Nauru, people are not dying from domestic violence and our police don't even have to be armed, so let's get some perspective into this discussion," Mr Adeang said.

But his assurances have been rejected by critics including Greens Senator Sarah Hanson-Young, one of the few Australian politicians to visit the island. "This is the minister who's responsible for overseeing the investigations into child abuse, rape and assault on Nauru," Senator Hanson-Young said.

"It's deeply concerning that this is the attitude of the person the Australian government is hiding behind. I have no faith that women and children will be safe or that justice will be delivered while he's in charge."

Early this year an independent review into sexual abuse inside the Nauru detention centre found evidence of rape, sexual assault of minors and guards trading marijuana for sexual favours from female detainees.

The full bench of the High Court will sit on Wednesday and Thursday to hear a challenge to the lawfulness of the Australian government's role in offshore detention on Nauru and Manus Island.

Senator Hanson-Young called on the Turnbull government, which funds Nauru's detention centre and asylum seeker program, to ensure that the media and human rights bodies are able to report the situation on the island.

Mr Adeang said claims by the Refugee Action Coalition of an assault on two male refugees were an unfounded attempt to criticise the open centre arrangements, saying the group had "a history of making unsubstantiated allegations of assault that have regularly been found to be false".

The coalition's Ian Rintoul responded by accusing Mr Adeang of making "wild and unsubstantiated assertions" designed to cover-up the serious levels of violence on the island. He cited Nauruan government documents confirming concerns about domestic violence and the failure to investigate a series of rape allegations by asylum seekers and refugees.

The Department of Immigration confirmed the incident involving the two male refugees was reported to police and Fairfax Media sighted a copy of the police witness statement.

<http://www.smh.com.au/federal-politics/political-news/nauru-safer-than-australia-local-justice-minister-claims-20151006-gk2ojn.html>

12. Internal document reveals Australia's complicity in Nauru detention

Crikey

Wednesday 7 October 2015

Josh Taylor, Crikey journalist

An internal Department of Immigration and Border Protection document, seen by Crikey, reveals that the Australian government knew that the Nauruan government was planning to "open" the asylum seeker detention centres on the island before the legislation was even put before Nauruan parliament. Not only that, but the Australian government planned to use the "opening" of the centres as an argument in a case before the High Court -- all before the allegedly independent decision by the Nauruan government was made public.

Today is the first of two days of hearings in the High Court for a case challenging whether it is constitutional for the Australian government to be sending asylum seekers from Australia to Nauru to be detained in centres funded, and effectively controlled by the Australian government.

On Friday last week, the government of Nauru announced it would make its detention centres in Nauru "open centres", with asylum seekers free to come and go, 24 hours a day, seven days a week, and would quickly process the outstanding 600 asylum seeker claims in the next week.

Although the "open centre" arrangement is effectively in name only, with the asylum seekers required to still live in detention centres, and restrictions said to be placed on what they can take in and out of the centre, the Australian government is clearly relying on this new open centre arrangement as part of its argument in the High Court. In an internal document from the DIBP, seen by Crikey, it is stated that on October 1 the Australian government approached the High Court to inform the court about the Nauruan government's "decision to expand the open centre arrangements".

Yet the Nauruan government announced on October 2 it was going to put the legislation for an "open centre" arrangement before its parliament, on the same day the Australian government was required to file an affidavit that would be made public revealing the new open centre arrangements.

The government is also not downplaying the significance of the case, according to the internal document:

"This is a significant constitutional challenge in the High Court to the regional processing arrangements, brought against the minister, the Commonwealth, and Transfield ... The plaintiff seeks final relief, including orders preventing her return to Nauru, preventing the making of payments by the Commonwealth to Transfield ... and declaring she was unlawfully detained by the Minister or the Commonwealth."

Yesterday it was reported that an officer in the DIBP was internally urging that the department try to return, from mainland Australia, as many asylum seekers to Nauru as possible ahead of the High Court hearing.

Almost as explosively, the document seen by Crikey also reveals that the government is attempting to appeal a landmark Federal Court ruling that the Department of Immigration and Border Protection did not offer a fair process to help asylum seekers whose data the department accidentally published online.

In early 2014 Guardian Australia discovered that the department had had accidentally published the names, nationalities, date-of-birth information, arrival dates, and boat information of close to 10,000 asylum seekers in detention centres on the Australian mainland and on Christmas Island. The information, which was published on the department's website, was only removed once Guardian Australia alerted the department to the breach.

Dozens of cases have been lodged in the Federal Court asking for those asylum seekers whose data was published to be granted protection in Australia from potential persecution in their home countries as a result of the breach. A number of the claims have been dismissed, but a recent judgment of the full bench of the Federal Court found that in the case of two asylum seekers, the department's handling of their claims in light of the department's own data breach had been "unfair to a significant degree".

After the data breach, the department wrote to those asylum seekers whose details had been compromised, giving them just two weeks to write to the department to explain the personal impact of the department's data breach. A KPMG report into the incident that included details on the IP addresses of people who had accessed the data while it was hosted on the department's website was not given to asylum seekers as part of that process, despite the fact that legal counsel for the asylum seekers had sought the report. Asylum seekers were attempting to use the report to determine whether authorities in their country of origin had viewed the document, to be able to determine whether they would face a threat if Australia returned them.

The court found that in the case of the two asylum seekers, the procedures in place to determine their claims after the data breach had been unfair.

"Rare is the case where a decision-maker asks a claimant to make submissions about what should happen in consequence of a failure to adhere to statutory safeguards of confidentiality committed by the decision-maker affecting the claimant," the three justices said in their judgment.

At the time of the judgment, the department did not say whether it planned to appeal the decision, but in the leaked document, the department has said it will challenge all but one of the findings of the court, and that it filed an application for special leave to appeal the case to the High Court at the end of September. The government will not challenge the court's finding that then-immigration minister Scott Morrison had been considering lifting the bar, preventing the asylum seeker from applying for a protection visa.

The Department of Immigration and Border Protection confirmed, when asked by Crikey, that an application for special leave to appeal the case to the High Court had been filed, but declined to comment further.

<http://www.crikey.com.au/2015/10/07/internal-document-reveals-australias-complicity-in-nauru-detention/>

13. Lawyers argue detention centres on Nauru breach Australian constitution

The high court challenge to offshore detention is told that the Nauru detention centre is an 'Australian endeavour', but is not authorised by Australian law

The Guardian
Daniel Hurst Political correspondent
Wednesday 7 October 2015 14.54 AEDT

The detention of asylum seekers on the Pacific island of Nauru is an "Australian endeavour" that breaches the constitution, lawyers for a Bangladeshi asylum seeker have argued on the opening day of a high court hearing.

The Human Rights Law Centre is bringing a series of challenges on behalf of more than 200 people who have been brought to Australia from Nauru and Manus Island – often for medical treatment – and are now facing return to the regional processing centres.

A hearing in Canberra – which began on Wednesday and is set down for two days – focuses on a woman who was detained on Nauru in 2014 but was brought to Australia for medical treatment at the late stages of her pregnancy. She gave birth in Australia and her lawyers are trying to prevent her return to Nauru, in a case that has broader relevance for Australia's regional processing of asylum seekers.

Ron Merkel QC, for the plaintiff, sought to establish that the Australian government "funded, authorised, procured and effectively controlled" the centre on Nauru, and the detention was not authorised by a valid Australian law or the constitution.

"We say ultimately that this detention ... was procured, caused, effectively controlled by and was at the will of the commonwealth," he told the full bench of the high court on Wednesday.

"It's not part of our case that Nauru has no role or involvement in the detention centre. It's clear that at that high level it was a joint endeavour. Both Australia and Nauru had a critical role in overseeing the framework of the centre, but when one goes down to the day-to-day operation of the centre as a detention centre that joint endeavour becomes an Australian endeavour."

Australia's solicitor general, Justin Gleeson SC, opened proceedings by filing an amendment to the material before the court to reflect the Nauruan government's announced move to an open arrangement for the detention centre.

He said until recently Nauru had an arrangement where people could leave the centre five days a week, up to 12 hours a day, if they met eligibility conditions.

Gleeson said the relevant minister on Nauru had indicated "that from Monday 5 October 2015, that's this week, the arrangements will be extended" to include freedom of movement 24 hours a day, seven days a week.

He said legislation to formalise the new open centre arrangement was set to be put before the parliament of Nauru at the next sitting.

Gleeson, who has yet to set out the Australian government's detailed defence, said the new arrangements would mean that "in no meaningful sense could this plaintiff or any person on Nauru" be detained.

But Merkel sought to play down the significance of the argument, saying the open centre arrangements could be withdrawn at any time without giving any reason.

He said Australia's Migration Act powers relating to regional processing had been framed in broad terms, but the court should be cautious about "liberty of the individual" and wide interpretations of the power to restrain people.

Merkel pointed to the requirement for the Australian government to pay the \$3,000 cost of extending each person's Nauruan visa every three months and the fact such applications were made on the request of an officer of the commonwealth.

He also cited the Department of Immigration and Border Protection's role in overseeing the contract with centre operator Transfield, which had to act in accordance with commonwealth policies.

He said the only service providers contracted to operate at the centre were engaged by the Australian government, and the department had the right to suspend those contracts and "step in" to run the centre.

Merkel said the Australian government was also able to "move a person at its will" back to the mainland for a temporary purpose, such as medical treatment.

Merkel also sought to pre-empt the federal government's arguments about the arrangements being consistent with Nauruan law.

He suggested that the "supreme law of Nauru" was its constitution, prompting the chief justice, Robert French, to question "whether it's appropriate for this court to enquire into the validity of the laws of another country".

The hearing continues.

<http://www.theguardian.com/australia-news/2015/oct/07/lawyers-argue-detention-centres-on-nauru-breach-australian-constitution>

14. Nauru centre opening has 'dramatic effect' on detention challenge, court told

Nauru's decision to allow asylum seekers to move around at all times becomes a core element of the Australian government's defence in a high court challenge

The Guardian

Daniel Hurst

Wednesday 7 October 2015 20.17 AEDT

Nauru's decision to fully "open" its immigration detention centre just days before the Australian high court heard a challenge against offshore processing has emerged as a core element of the government's defence.

Allowing asylum seekers to move around the Pacific island 24 hours a day had "a dramatic effect" on the legal standing of the Bangladeshi woman who was seeking to prevent her return to Nauru, the Australian government's lawyers told the court on Wednesday.

The two-day hearing – due to continue on Thursday – was told that the challenge had the potential to dismantle the system of offshore processing supported by the main parties of Australian politics.

The lead case involves a Bangladeshi woman who was on a boat intercepted by Australian officers in October 2013 and was detained on Nauru from January 2014 until August 2014, when she was brought to Australia for medical treatment and subsequently gave birth to a child. The baby is now 10 months old.

The woman's lawyers argued the Australian government "funded, authorised, procured and effectively controlled" the detention on Nauru, but this was not authorised by a valid Australian law or section 61 of the constitution.

Ron Merkel QC, acting for the asylum seeker, said the day-to-day operation was "an Australian endeavour" and the new open-centre arrangements could be withdrawn at any time in future.

But Australia's solicitor general, Justin Gleeson SC, rejected the claims, saying it would be "extraordinary" for the court to find that Nauru was "our dependency or our territory" rather than a sovereign nation.

He said Merkel was seeking "a constitutional dismantling of regional processing in any circumstance where the other country chooses to detain people while the [refugee] claims are being processed, the very thing that can validly occur in Australia".

Gleeson said the person who brought the legal challenge would no longer face detention if she returned to Nauru. He said the new visa conditions continued to set the regional processing centre as "the designated place of residence", but did not stop anyone from leaving the site at any time.

"In no meaningful way could that be described as detention," he said.

Gleeson said that "in one sense" Nauru had "given him [Merkel] what he wants" – a reference to the recent announcement that detainees would be free to leave the centre at any time of the day, seven days a week.

One of the seven high court judges, Stephen Gageler, asked Gleeson whether he had invited the court to find that the change in Nauruan law was associated with the commencement of the present legal proceedings.

The solicitor general replied that on the material before the court, it was known that the system had changed and the timing of the decision but “we know precious little more than that”. He added that the change “has a dramatic effect on the plaintiff’s legal rights”.

A document used as a guide for staff to answer detainee questions, obtained by Guardian Australia, shows that people on Nauru have been told to expect no change in their living circumstances for now.

It said those found to be refugees “will be living alongside people who have not been found to be refugees or who have not yet received a decision”, although new accommodation was set to be built.

The immigration minister, Peter Dutton, had welcomed the Nauru government’s actions on Monday, but played down any link to the forthcoming high court case.

“It’s worked progressively to the announcement today, so it’s not just an announcement 48 hours, as you say, before a court case,” he told the ABC’s Lateline program on Monday.

Nauru’s shift to an open-centre arrangement is the second substantial change to have a potential bearing on the case.

The case began with an application filed on 14 May for an order to prevent Dutton from taking steps to return the Bangladeshi woman to Nauru.

In June, the Australian government – then led by Tony Abbott – rushed legislation through the federal parliament to retrospectively clarify the commonwealth’s powers to fund regional processing centres.

The legislation – which won support from the Labor party – inserted a new section into the Migration Act, backdated to August 2012, saying that the commonwealth may “take, or cause to be taken, any action in relation to” regional processing arrangements.

The new section, known as 198AHA, also declared the commonwealth could “make payments, or cause payments to be made, in relation to the arrangement or the regional processing functions of the country” or “do anything else that is incidental or conducive to the taking of such action or the making of such payments”.

The Australian Human Rights Law Centre, which is representing the Bangladeshi woman and says it is acting for about 200 other asylum seekers who were brought to Australia temporarily, pushed ahead with the case.

The centre’s director of legal advocacy, Daniel Webb, said a question now before the court was whether that was a constitutionally valid law.

“Irrespective of these changes, there remain important and untested constitutional questions about the power of the Australian government to pay and to control the detention of innocent people in other countries,” he said outside court on Wednesday morning.

Webb said Australian law clearly gave the government some power to detain people in Australia and remove people from the country “but it is an altogether different thing to fund and control the detention of those people in other countries. It is that funding and that detention that this case challenges.”

The court has been asked to consider whether the commonwealth and the minister’s actions had been authorised by section 61 of the constitution, which covers the extent of executive powers.

The court has also been asked to consider whether the actions were authorised by section 198AHA and whether it is valid, and other financial framework laws.

Transfield Services, a detention centre operator whose contract with the federal government is in the spotlight, is the third defendant in the case, after the immigration minister and the commonwealth.

<http://www.theguardian.com/australia-news/2015/oct/07/nauru-open-centres-asylum-seeker-fighting-offshore-detention-high-court>

15. Nauru's move to open its detention centre makes it "more dangerous" for asylum seekers

Sydney Morning Herald
October 9, 2015 - 4:00PM
Tom Allard

For the Australian government, it appeared a serendipitous piece of timing.

Just days out from a High Court hearing on the constitutionality of Australia funding the detention of asylum seekers offshore, Nauru announced on Monday it was offering complete freedom of movement for the 650 asylum seekers sent there by Australia.

Despite the insistence of immigration minister Peter Dutton that Nauru's move was inevitable and the timing coincidental, the decision nonetheless formed a central plank of the government's legal defence.

Thanks to Nauru's action, the solicitor general Justin Gleeson SC told the court, the detention camp hosting the asylum seekers since 2012 could now be described as a "designated place of residence".

"In no meaningful way could that be described as detention," he said.

Moreover, Gleeson added, this had a "dramatic effect" on the legal rights of the Bangladeshi mother who is the plaintiff before the court, one of some 200 asylum seekers processed offshore but temporarily housed in Australia due to medical and family reasons.

Asked directly from the bench if the Nauru announcement was linked to legal proceedings, Gleeson urged the court to consider only what was the public record.

"We know precious little more than that."

Gleeson's response lacked clarity and was cloaked in vagueness, like much of what happens on Nauru.

Nauru refuses to allow journalists to enter the country and workers in the refugee camps can't speak freely about conditions due to the threat of a two year prison term, prompting the UN to cancel a visit last month.

Even so, it appears clear that many asylum seekers living outside the detention centres - as many of those found to be refugees already do - consider it more unpalatable than the fenced detention camp itself.

"They are more terrified about living out in the community in Nauru than in detention," says Abdiaziz Farah, a community leader in contact with some of the 86 Somalis on Nauru. "There is a huge sense of insecurity and the constant threat of sexual abuse. They describe it as living in constant fear."

Two Somali women have allegedly been raped while living outside the detention centre in the past few months. An Iranian woman walking outside the centre was also raped.

Some of the new accommodations outside the centre are unguarded and remote and there are reports of break-ins and regular sexual taunts and threats. Young men report being bashed, or having rocks thrown at them while riding motorbikes.

And in no instance has the Nauruan police charged locals for wrongdoing.

"These are people who have been through torture and trauma in their past. That's why they left. Now they are being traumatised all over again," says Farah.

"Najma", the 26 year old Somali woman who alleged she was raped by two men in August as she walked along a path at dusk, is a tragic case in point.

Her abduction and harrowing encounter with police recorded and broadcast on ABC TV's 7.30 program was just the latest torment in a lifetime of violence and suffering.

According to a signed statement sent to Fairfax Media, Najma - who has been found to be a genuine refugee - says she was kidnapped in Somalia as a 15 year old and held two years by a rival tribal warlord and repeatedly sexually abused. After falling pregnant, her stomach was punched to force an abortion.

She was rescued and married one of her saviours, who was from another kin group. Rejected by his family, Najma spent years living in fear. In the end, her husband was beheaded by his brother, a member of the al Qaeda-linked terrorist group al Shabab.

Peter Law, Nauru's former magistrate, says many Nauruans welcomed the asylum seekers when they first arrived. Grateful for the jobs and millions of dollars they would bring, there were soccer games arranged as well as other activities.

Full story at <http://www.smh.com.au/federal-politics/political-news/naurus-move-to-open-its-detention-centre-makes-it-more-dangerous-for-asylum-seekers-20151008-gk4kbt.html>

16. Nauru lets local journalists into centre but keeps \$8,000 fee for foreigners

Detention centre's operations manager tells staff that government cleared Nauruan media 'to take photos/footage ... to help reinstate balance to the story'

The Guardian
Paul Farrell and Ben Doherty
Thursday 8 October 2015 18.35 AEDT

The Nauruan government is preparing to allow Nauruan journalists to enter the island's detention centre but will maintain an \$8,000 application fee for foreign journalists to enter the country.

An email obtained by Guardian Australia titled "media on site" from the Nauruan operations manager, Berilyn Jeremiah, advised staff at the detention centre on Thursday that the government of Nauru was allowing a number of Nauruan journalists to enter the detention centre.

The email said: "Please be advised that the GoN has cleared Nauru media to take photos/footage of the infrastructure at both RPC2 and 3.

"The GoN wants to provide further updates on the current arrangements of the 24/7 OC [open centre] through the media to help reinstate balance to the story of the real."

When contacted by Guardian Australia, Jeremiah refused to answer whether Australian journalists would also be allowed into the centre, and said: "I cannot offer any information to the media at the moment."

A series of recent allegations of sexual assault and other serious incidents have continued to raise concerns about the safety of asylum seekers and refugees on the island.

The presence of reporters at the detention centre is a highly unusual occurrence. The government of Nauru has strongly resisted any independent media reporting of the detention centre.

There are only a handful of local media outlets on the island, including the state-owned Nauru Television network that is overseen by the Nauru media bureau.

Foreign journalists are required to pay an \$8,000 application fee – up by almost 2,000% from \$400 in January 2014 – to apply for a visa to visit and report from Nauru.

The \$8,000 is non-refundable if the government refuses a visa. The current prohibitive visa regime for foreign journalists has been a major deterrent to journalists entering the country.

The announcement by the Nauruan government coincides with a crowdsourcing initiative that has just succeeded in raising \$20,000 to pay for investigative journalist Wendy Bacon and former health minister Carmen Lawrence to apply for visas.

Access to the detention centre has previously been an issue of concern for the Australian government. In internal cables back to Canberra released under freedom of information laws, foreign affairs department officers said the precipitous visa fee increase raised "separate concerns around transparency and media access. Intervention at a senior level may be required."

But senior diplomats were unsuccessful in trying to get Nauru's justice minister, Lionel Aingimea, to back down on the new fee.

"In response to our concern that this sent a negative message with regard to transparency and media access, Aingimea responded that the message [was] 'You're welcome, but pay the fee.'"

The Nauruan government announced on Saturday it would allow some asylum seekers to move freely outside the Nauru detention centre "24 hours per day".

The announcement coincided with a constitutional challenge in the high court of Australia's offshore detention regime, and became a key part of the government's defence on Wednesday.

<http://www.theguardian.com/australia-news/2015/oct/08/nauru-lets-local-journalists-into-centre-but-keeps-8000-fee-for-foreigners>

17. Nauru detention camp 'not controlled by Australia', say government lawyers

Sydney Morning Herald
October 8, 2015 - 4:33PM
Nicole Hasham

Australia does not control the controversial Nauru detention camp and a Bangladeshi mother and baby who are "terrified" of being returned there would be free to come and go, the High Court has heard.

The assertion was made by lawyers for the Commonwealth on the second day of the challenge to the lawfulness of Australian-funded detention centres at Nauru and Manus Island, which argues the federal government does not have the power under the constitution to detain people overseas.

The test case has wide implications for Australia's offshore processing regime and, in particular, about 200 people who have been detained offshore and are now in Australia temporarily, including more than 50 children and victims of violence and sexual assault.

The plaintiff is a woman from Bangladesh who was brought to Australia from Nauru in August last year for medical treatment. Her daughter is now 10 months old and supporters say the mother is "terrified" of returning to Nauru.

Australia's involvement in the centre is a key point in establishing if the federal government is operating outside its powers.

Counsel for the Commonwealth Justin Gleeson SC told the court on Thursday that the centre operates at the will of the Nauruan government and Australia helps the republic to "carry out its law on its soil".

He rejected suggestions made by the woman's lawyers on Wednesday that a Nauruan operations manager was involved only at the "helicopter level" at the centre, saying the official was responsible for its day-to-day running.

"Large or small, everything traces back to the operations manager," Mr Gleeson said.

Australia funds the centre and contracts Transfield Services and Wilson Security to operate and secure it, but those firms played only a support role, Mr Gleeson said, adding the Australian contractors "cannot be subject to direction by an officer of the Commonwealth".

While the federal government applies and pays for visas that required people to be detained in the centre, Nauru is a sovereign state that "determined whether any person ... enters Nauru", Mr Gleeson told the court.

"Nauru determines whether to accept [them] and critically Nauru determines the conditions of the visa," he said, adding Nauruan law also decided who was allowed to leave the centre, and under what conditions.

The woman's lawyer Ron Merkel QC told the court on Wednesday that, through a contract with Transfield Services, the Commonwealth funds, controls and implements the powers of detention.

Federal government actions such as asking Nauru to establish the camp, procuring a perimeter fence to keep people inside and applying and paying for visas that require people to be detained showed the camp was an Australian venture, he said.

The Nauru government this week announced the detention camp would become an "open centre" 24 hours a day, and detainees would be free to come and go as they pleased.

On Thursday Mr Gleeson told the court this meant the detainees are no longer required to remain inside the detention centre, but may simply use it as a place of residence. The woman's lawyers have contended this arrangement could be revoked at any time.

The woman's lawyers also argued that the federal government's contact with Transfield Services was invalid. Stephen Donaghue QC, acting for Transfield Services, rejected this and said the contract "follows the detention rather than causes it".

The court reserved its decision.

<http://www.smh.com.au/federal-politics/political-news/nauru-detention-camp-not-controlled-by-australia-say-government-lawyers-20151008-gk48cc.html>

18. Australia did not require Nauru to detain asylum seekers, high court told

Solicitor general disputes assertions Canberra is effectively responsible for the detention of people it transferred to the island because it funds processing centre

The Guardian
Daniel Hurst Political correspondent
Thursday 8 October 2015 15.34 AEDT

Australia did not require Nauru to detain asylum seekers sent to the small Pacific nation for processing and any such limits on their movement had to comply with local law, government lawyers have told the high court.

Australia's solicitor general, Justin Gleeson SC, disputed assertions by lawyers for a Bangladeshi asylum seeker that Canberra was effectively responsible for the detention of people it transferred to Nauru because it paid for their temporary visas and funded the processing centre.

But Gleeson argued that even if the high court made such a finding, the actions were authorised by retrospective changes to the Migration Act that the Australian parliament passed in June, a month after the plaintiff initiated her case.

"It's belts and braces; it's parliament looking at what the executive [government] is doing saying, 'If you need our permission you have it,'" he told the court during a hearing in Canberra on Thursday.

Gleeson said parliament had passed the legislation "in order to ensure that at least this aspect of the case didn't trouble the court".

He was addressing the full bench of the high court on the second day of a hearing into a case that challenges the legality of Australia's involvement in the detention of asylum seekers in Nauru and the validity of the Australian government's contract with the processing centre operator Transfield Services.

The result could have broader implications for the future of Australia's system of offshore processing, which has support from the main political parties, but a decision could be months away.

The lead case involves a Bangladeshi woman who was on a boat intercepted by Australian officers in October 2013 and was detained on Nauru from January 2014 until August 2014, when she was brought to Australia for medical treatment and subsequently gave birth to a child. The baby is now 10 months old.

The woman's lawyers argued on Wednesday that the Australian government had "funded, authorised, procured and effectively controlled" the detention on Nauru, but this was not authorised by a valid Australian law or section 61 of the constitution.

They were seeking to prevent her return to Nauru, saying there remained a risk she would be detained there because the new "open centre" arrangements announced by the local government could be revoked at any time.

Gleeson, who began his oral arguments late on Wednesday but continued to address the court on Thursday, sought to rebut the argument about the extent of Australia's involvement. At most, he said, the court could find that there was "substantial funding and assistance by Australia in various steps which enable Nauru to carry out its law on its soil".

The solicitor general said Nauru was a sovereign state that could not be bound to accept people Australia transferred to the island. He conceded that an application for Nauru's special regional processing visa could only be made by an Australian officer but Nauru determined whether to accept it and what conditions to impose.

When the chief justice, Robert French, suggested that the visa "didn't come out of the sky", Gleeson replied that the critical point was that Australia did not determine the conditions.

Gleeson denied the plaintiff's arguments that detention on Nauru could be described as arbitrary, saying it was associated with the purpose of processing refugee claims and, if successful, people would "graduate to a temporary settlement visa".

Nauru had the power to relax the requirements for people to remain in the processing centre, he said. "If an Australian official purported to give a direction to a service provider to reject a request to leave the premises the service provider would be entitled to say, 'I'm exercising a power pursuant to Nauruan law and that must be my guiding touchstone, not simply the dictates of Australia.'"

French asked whether the commonwealth, in the implementation of the arrangements, could be taken to provide "material support necessary for the establishment and maintenance of a detention regime".

Gleeson said: "The short answer to that is yes."

Referring to security restraints, Gleeson said: "Our position is it's a restraint imposed by Nauru capable of relaxation by persons Nauru chooses who operate as Nauru functionaries."

Gleeson acknowledged the Transfield contract contained references to Australian laws and policies, but added: "Anything the commonwealth and Transfield might agree is naturally subject to the overriding force of the laws of Nauru."

Transfield's lawyers were due to give evidence to the court on Thursday in defence of the validity of the contract.

The case began with an application filed on 14 May for an order to prevent the immigration minister, Peter Dutton, from taking steps to return the Bangladeshi woman to Nauru.

In June the Australian government – then led by Tony Abbott – rushed legislation through the federal parliament to retrospectively clarify the commonwealth's powers to fund regional processing centres.

The legislation – which won support from the Labor party – inserted a new section into the Migration Act, backdated to August 2012, saying the commonwealth may “take, or cause to be taken, any action in relation to” regional processing arrangements.

The new section, known as 198AHA, also declared the commonwealth could “make payments, or cause payments to be made, in relation to the arrangement or the regional processing functions of the country” or “do anything else that is incidental or conducive to the taking of such action or the making of such payments”.

Gleeson told the court on Thursday the new provisions were designed to satisfy the requirements that arose from the so-called Williams case, which related primarily to the federal government’s funding of school chaplaincy but had broader implications.

“Namely, it works on a theory that it would be within the executive power under section 61 of the constitution for the executive to decide, as it were, to enter the arrangement in the first place,” he said.

“Here is parliament saying, ‘You may go ahead and do everything you need to perform that arrangement which you’ve considered appropriate to enter.’”

Gleeson emphasised that although the legislation gave the Australian government the capacity and authority to undertake such actions, it could not override Nauruan law.

<http://www.theguardian.com/australia-news/2015/oct/08/australia-did-not-require-nauru-to-detain-asylum-seekers-high-court-told>

19. A quarter of 600 remaining asylum seekers on Nauru likely to face order to go home

Sydney Morning Herald
October 8, 2015 - 9:41AM
Nicole Hasham

About 150 asylum seekers on Nauru face being sent home as the island's government works through about 600 remaining refugee claims.

However the government concedes its promise to process all refugee claims this week will not be met.

Refugee lawyers and others have been recruited to speed up refugee determinations, which the government says will be more than 26 times faster than the processing rate to date.

A Nauruan government official confirmed to Fairfax Media that about 75 per cent of refugee claims processed on the Pacific island are accepted, potentially leaving 25 per cent of the 600 remaining asylum seekers being told to return to their countries of origin or lodge an appeal.

In a surprise move on Monday, Nauru Justice Minister David Adeang said the government intended to determine about 600 remaining refugee claims "within the next week", and confirmed asylum seekers were now free to come and go from the detention centre as they pleased.

But Nauru Department of Justice and Border Control deputy director Shyla Vohra has since told Fairfax Media the government now expects to finalise 400 refugee claims by Sunday.

It will not give determinations to people who have been transported out of the country for medical reasons, nor will it do so for their family members because "family claims should be determined and handed down together", she said.

Determinations will also be withheld in cases where assessments are not yet complete, if asylum seekers have raised additional claims since their interview or further research is required. These remaining cases "will be done as soon as possible", she said.

The determination of 400 refugee claims in one week still leaves questions over how this will be achieved, given Nauru had been working through about 15 each week until now.

Ms Vohra said almost all asylum seekers had already been interviewed, detailed assessments had been drawn up and recommendations made.

Senior legal staff then conduct a "quality control process" over each assessment to ensure consistency, accuracy and quality, before they are reviewed by the Secretary for Justice.

The Nauruan government was keen to "end the limbo for asylum seekers" and would accelerate the process by seconding experienced refugee lawyers and protection officers to assist with quality control, Ms Vohra said, adding this would occur "without compromising on the quality of determinations".

Those found not to be refugees would be asked to "voluntarily" return to their home countries or lodge an appeal with the Nauru Refugee Review Tribunal.

The tribunal is composed of Australians who are either current or former members of the Australian Refugee Review Tribunal. Asylum seekers are helped in the tribunal process by migration lawyers and agents.

If the tribunal upholds the negative refugee determination, asylum seekers can appeal to the Supreme Court of Nauru. The first of such hearings is expected later this year.

"After their final appeal is heard, a person who is not found to be a refugee is expected to return or may be removed," Ms Vohra said.

Despite the new open centre arrangement on Nauru, it is expected some asylum seekers and refugees will return to the detention centre each night to sleep.

Hard-walled, air conditioned units on land inside the detention centre are being constructed as settlement accommodation.

For those who opt to live outside the centre, Ms Vohra said a number of recently built apartments may be used and more units are being built.

About 569 refugees presently reside at Nauru comprising 208 adult men, 46 adult females, 289 in family groups and 26 who were classed as unaccompanied refugee minors, but are mostly now aged over 18.

Many live in accommodation outside the centre. They do not pay rent but receive a living allowance, Ms Vohra said.

There are concerns for the safety of refugees at Nauru after numerous reports of attacks and sexual assaults.

They include a 23-year-old "vulnerable and traumatised" Somali woman who was raped on Nauru and has pleaded with Prime Minister Malcolm Turnbull to allow her to come to Australia for an abortion.

However Mr Adeang this week claimed that in some ways, "Nauru is safer than Australia".

<http://www.smh.com.au/federal-politics/political-news/a-quarter-of-600-remaining-asylum-seekers-on-nauru-likely-to-face-order-to-go-home-20151007-gk3r2q.html>

20. Nauru backtracks on pledge to process all asylum seekers within a week

ABC News Online

By political reporter Dan Conifer

First posted Thu 8 Oct 2015, 6:35pm

Updated Thu 8 Oct 2015, 6:40pm

The Nauruan government is backtracking on its commitment to process 600 refugee claims "within a week", saying about 400 will be completed by Sunday.

The Pacific nation announced on Monday it would quickly finalise applications of all remaining asylum seekers.

The country also announced curfews would be lifted, making the Australian Government-funded facility an "open centre".

But deputy director of Nauru's Department of Justice and Border Control, Shyla Vohra, said the timeline does not apply to people outside Nauru or their families.

"There are some people who are overseas for medical transfers," Ms Vohra told ABC's Radio National.

"We're also not going to be handing down the determinations for family members for anyone who is overseas for a medical transfer, so that we can do family determinations together."

Ms Vohra said about 20 additional staff had been recruited to handle the workload, and the team had identified some applications requiring more work.

"There are going to be some cases that can't be finalised quickly for whatever reason, or [where people] need to be re-interviewed, or where we consider we need further information or further research to be done."

The one-week timeframe also will not apply to people who have raised additional claims after their interview.

Ms Vohra said about 75 per cent of asylum seekers processed have been recognised as refugees, but most whose claims have been rejected are appealing.

Monday's decision to process all remaining asylum seekers came just days before a legal challenge examining the Australian Government's role in the centre's operation.

However Immigration Minister Peter Dutton said the announcement from Nauru had nothing to do with the court case.

Over the past two days the full bench of the High Court heard arguments that it was illegal for the Government to operate a pay for offshore detention in a third country.

If the court agrees, the whole offshore detention regime could be deemed invalid.

<http://www.abc.net.au/news/2015-10-08/nauru-backtracks-on-vow-to-process-asylum-claims-within-week/6839250>

21. Federal government asks Australian Federal Police to find Nauru whistleblowers

Sydney Morning Herald
October 5, 2015 - 12:15AM
Nicole Hasham

The federal government called in the Australian Federal Police to investigate information leaks from the Nauru detention camp six times in as many months, prompting claims it is pursuing whistleblowers instead of those who allegedly assaulted and raped asylum seekers.

While Immigration Minister Peter Dutton insists that crimes allegedly committed in the Nauru centre should be dealt with by the island's local police, his department routinely asks Australia's top law enforcement body to probe who is disclosing information from inside the camp.

Leaks about alarming incidents at the Australian-funded facility add fuel to domestic and international claims the government has abandoned its human rights obligations by allowing asylum seekers to live in dangerous, inhumane conditions.

In the six months to March this year the Department of Immigration and Border Protection asked the AFP to investigate six alleged cases of "unauthorised disclosure of Commonwealth information" from the Nauru centre. Four were investigated but there was insufficient evidence to make any prosecutions.

It is believed one referral related to a submission by Save the Children workers to a Human Rights Commission inquiry into children in detention.

Legal experts claimed such use of anti-whistleblower laws was draconian and designed to intimidate others into silence.

Figures supplied to Fairfax Media show the department was by far the heaviest user of anti-whistleblower laws – specifically, section 70 of the Crimes Act.

In the period the department made six Nauru referrals, just three other referrals were made relating to Commonwealth operations.

One was by Greens Senator Sarah Hanson-Young, who referred the office of former Immigration Minister Scott Morrison over the alleged release of Nauru information to a journalist.

A department spokesman said it did not identify specific offenders when asking the AFP to investigate unauthorised disclosures.

While such disclosures should, in some circumstances, be referred to the AFP, "sexual assault in Nauru is a matter for the Nauruan Police Force", he said, adding the government was committed to helping provide safe conditions for detainees and refugees.

A Senate inquiry into the Nauru centre in August found local police, which are reportedly under-resourced, had laid charges in just five out of 50 cases referred to them.

It said the department and the AFP should fully audit all criminal conduct allegations from the Nauru facility.

Senator Hanson Young said "there is a witch hunt on at the Nauru detention camp and, instead of going after the people committing sexual assault and abuse, the government is chasing whistleblowers".

"It is concerning that child abuse investigations are palmed off to the incompetent Nauru authorities, but talking about child abuse is taken more seriously," she said.

Nauru police reject claims they are under-resourced and not qualified to conduct investigations.

An anonymous submission to the Nauru Senate inquiry alleged Wilson Security, the detention centre subcontractor that has been the subject of several damaging leaks, was investigating the identity of whistleblowers with a view to terminating their employment.

The company denied the claims, saying it supports the need for whistleblower protection.

The UN this month postponed a planned visit to Australia because the government cannot guarantee legal protection for detention centre workers who discuss conditions faced by asylum seekers.

The United Nations' Special Rapporteur on the human rights of migrants, Francois Crepeau, said the Border Force Act, which makes it a crime for immigration and border protection workers to disclose information about offshore detention centres and threatens them with imprisonment, "serves to discourage people from fully disclosing information relevant to my mandate".

<http://www.smh.com.au/federal-politics/political-news/federal-government-asks-australian-federal-police-to-find-nauru-whistleblowers-20150930-gjyj0i.html>

22. Refugee boy allegedly attacked by Nauruan gang asks 'what kind of people are these?'

Sydney Morning Herald
October 5, 2015 - 1:04AM
Nicole Hasham

A pack of Nauruan men allegedly attacked two refugee boys and left one bloodied, bruised and too scared to leave home, putting further pressure on the Turnbull government to intervene in a situation described as "like hell".

The boys, both 17, told police they were walking to a refugee camp in the Ewa district at about 11.30pm on Wednesday last week when a group of Nauruan men, some on motorbikes, accosted them in a poorly lit area.

The men allegedly swore at the boys, demanded money and stole their mobile phones.

One Afghani boy, who wanted to be known as Mohammad, tore his shirt as he escaped but his Pakistani friend, Zijah Haider, was allegedly beaten.

Mohammad told Fairfax Media he could hear Zijah shouting and crying out in pain.

"They punched my friend. It was dark, I didn't recognise them. It was a bad situation, I was afraid," he said.

Photos supplied to Fairfax Media allegedly depict Zijah's injuries, showing bleeding gashes to his hand and knee. He is also believed to have suffered bruising and scratches to his back after being knocked to the ground.

"[Zijah] is not going out anymore. He says 'what kind of people are these?' He is very scared of them," Mohammad said.

"Nauru is like hell for refugees."

It is understood at least one local Nauruan man assisted the boys after the attack.

An account of the incident is detailed in an unverified police witness statement sighted by Fairfax Media.

The alleged attack follows reports last month that a 26-year-old Somali woman, also a refugee living on the island, was raped by two Nauruan men.

A distressing video of the refugee's call to police, in which she said she was hiding in a cave, was broadcast on the ABC.

Refugee Action Coalition spokesman Ian Rintoul said refugees living in the Nauru community were routinely attacked. He said the situation was "badly out of control" and single women and young refugees were "preyed upon with impunity".

A spokesman for the Nauru government's Australian-based public relations agency, Mercer PR, refused to comment. The Department of Immigration said it was aware of "an incident this week involving refugees" which was reported to the Nauru police, adding inquiries should be directed to them.

Meantime a group of academics, known as Researchers Against Pacific Black Sites, claims the mother of an Iranian woman, who was sexually assaulted, tried to hang herself after being "no longer able to bear the acute suffering" of her family.

After the attack her daughter was flown to Brisbane for medical treatment, where she is believed to remain, after refusing to eat and attempting suicide twice, including by drinking insecticide. The sex assault victim's brother has alleged he was mistreated by Nauru police – a claim police deny.

The department said no report of the mother's suicide attempt had been made and it takes "very seriously" the health and welfare of transferees at the Nauru detention centre.

<http://www.smh.com.au/federal-politics/political-news/refugee-boy-allegedly-attacked-by-nauruan-gang-asks-what-kind-of-people-are-these-20151004-gk0tf6.html>

23. Government working on new refugee resettlement deals, Peter Dutton says

ABC News Online

By political reporter Stephanie Anderson

First posted Tue 6 Oct 2015, 6:58am

Updated Tue 6 Oct 2015, 7:09am

Immigration Minister Peter Dutton says the Government is in negotiations to find new third party resettlement options for refugees.

Mr Dutton told the ABC the Government was in discussions with parties other than Cambodia, which he said remained committed to resettlement despite "undermining" from refugee advocates.

"We're working and have been for a long period of time working on other bilateral options," he said.

"We have Cambodia available as an option and it is difficult when we've got probably well intentioned refugee advocates back here who are messaging up to these people on Nauru, saying 'don't accept any offer'.

"I think the process is being undermined by these well intentioned advocates."

His comments follow an announcement by the Nauruan government yesterday that it will move to process all remaining asylum seekers in the immigration detention centre "within the next week".

The centre will also become an "open" facility, allowing the approximately 600 asylum seekers to move around the island freely.

The announcement's timing has raised suspicions within the legal community, with the full bench of the High Court scheduled to hear a challenge into the lawfulness of the Government's role in offshore detention on Nauru on Wednesday and Thursday.

Mr Dutton told the ABC the move to open the centre and process remaining asylum seekers was not related to the legal challenge.

"That's an issue for Nauru, because they run the regional processing centre," he said.

"They make decisions around the open centre arrangements."

Mr Dutton refused to weigh in on the case further, saying it was an issue "best contested by the lawyers".

Australia has to be held responsible, Greens say

Greens Senator Sarah Hanson-Young described the timing of the Nauru announcement as "very coincidental", and welcomed the High Court case.

Speaking to the ABC, Senator Hanson-Young said "Australia has to be held responsible".

She also urged Prime Minister Malcolm Turnbull and Mr Dutton to allow refugees to resettle in Australia, citing concerns over safety for those who remain in the wake of continued reports of violence against women.

"The justice system and the police system in Nauru is just atrocious," she said.

"I take extreme offence at the idea that Peter Dutton believes Nauru is a safe place. Let's get on a plane, minister. Let's go to Nauru and I will show you where women stay hidden at night because they are afraid of what will happen to them."

Mr Dutton responded to the concerns, saying the Government put "a lot of money and financial support" into the arrangements on Nauru.

"Sarah Hanson-Young's stunt of the week is all nice and perhaps a headline, but I want a practical outcome," he said.

Labor has also raised concerns for the safety and security of remaining asylum seekers on Nauru this week, with Opposition immigration spokesman Richard Marles urging the Government to "ensure the incredibly serious allegations of rape and assault are urgently investigated".

<http://www.abc.net.au/news/2015-10-06/government-working-on-new-refugee-resettlement-deals/6829942>

24. Australia seeking refugee resettlement deal with Philippines, say reports

Foreign minister confirms talks with Philippines 'on people smuggling' and Australia has reportedly offered funding of \$150m over five years

The Guardian
Daniel Hurst and Ben Doherty
Friday 9 October 2015 09.41 AEDT

Australia is believed to be seeking a deal with the Philippines to permanently resettle refugees in limbo in offshore detention centres.

Cambodia has previously agreed to resettle refugees who tried to reach Australia by boat, but the \$55m arrangement faced criticism stemming from the fact it was not contingent on the country taking a certain number of refugees.

So far, just four have been transferred to Cambodia from the Australia-backed regional processing centre on Nauru.

Australia's foreign affairs minister, Julie Bishop, confirmed she was talking to the government of the Philippines about the "people smuggling" issue.

"The governments of Australia and the Philippines have long cooperated on irregular migration, people smuggling and human trafficking. These issues are important to both countries, and to the region," Bishop's spokeswoman said on Friday.

"These issues were discussed at a meeting between foreign minister Julie Bishop and her counterpart, secretary Mr Albert del Rosario, in the margins of the UN general assembly in New York," the spokeswoman said.

A deal has not been finalised, but News Corp papers reported that Australia had offered funding of \$150m over five years in the initial talks. The president of the Philippines, Benigno Aquino, had yet to sign off on the deal, according to the reports.

Australia funds regional processing centres on Nauru and Papua New Guinea's Manus Island, but the operations have faced criticism on safety grounds – including relating to rape allegations – and long delays in people having their refugee claims assessed.

Nauru's commitment to process all refugee claims by the end of this week will not be met, with a senior government official saying the claims of some might still take weeks to resolve.

On Monday, Nauru's justice minister, David Adeang, "committed the government to processing all remaining refugee claims within the next week".

But the deputy director of the department of justice and border control, Shyla Vohra, told the ABC complex cases, and the cases of people sent to Australia for medical care, will take longer to resolve.

"There are going to be some cases that can't be finalised quickly for whatever reason, or [where people] need to be re-interviewed, or where we consider we need further information or further research to be done," Vohra said.

"The remaining cases, where we need to do further research and re-interviews, we're hoping to get done in the next few weeks; it depends on the complexity of the case really."

Some of the 600 on Nauru have been there for more than two years without having their refugee status finalised.

Since being re-opened in August 2012, Nauru's detention centre has been mired in controversy, with consistent reports of assaults of asylum seekers, rapes of women inside and outside the camps, sexual abuse of children and inadequate medical care.

There are currently 653 people held in detention on Nauru, including 114 women and 93 children. The detention camp has become an "open centre" this week, with asylum seekers able to move around the island.

Australia's high court on Thursday reserved its decision on a legal challenge to offshore detention following a two-day hearing.

Reza Barati, a 23-year-old Iranian asylum seeker, was killed during unrest at the Manus detention centre in February 2014. Two Papua New Guinean men are on trial on murder charges.

<http://www.theguardian.com/australia-news/2015/oct/09/australia-seeking-refugee-resettlement-deal-with-philippines-say-reports>

25. Coalition government in talks to resettle refugees in the Philippines

Sydney Morning Herald
October 9, 2015 - 7:42AM
Latika Bourke

Refugees who travelled to Australia by boat could be permanently resettled in the Philippines under a deal being negotiated, but senior government sources fear the premature leaking of the deal to the media could see the proposal scuttled.

The deal, reported to be worth about \$150 million, would be similar to the one Australia struck with Cambodia to send refugees processed on Nauru to the impoverished nation. However that deal collapsed with just four refugees opting to resettle there at a cost of \$50 million to the Australian taxpayer.

Immigration Minister Peter Dutton has accused refugee advocates of undermining the Cambodia deal and this week confirmed the Australian government was looking to forge similar resettlement deals with other countries.

Fairfax Media understands the Coalition government began discussions for another deal with the Philippines under the leadership of former prime minister Tony Abbott.

The deal was first reported by News Corp on Thursday, citing Foreign Minister Julie Bishop as saying: "The governments of Australia and the Philippines have long co-operated on irregular migration, people smuggling and human trafficking.

"These issues are important to both countries, and to the region."

Ms Bishop raised the matter with her Philippine counterpart at the United Nations in New York but no final agreement has been struck or signed.

A senior source told Fairfax Media the talks are still only at an "in-principle" level and expressed fear that the leaking to the media could put the whole deal in jeopardy.

Refugee advocates are certain to criticise the idea and accuse the Australian government of absconding its duty to asylum seekers who are a fleeing persecution.

Currently, asylum seekers who come by boat are sent to offshore detention camps on Nauru and Papua New Guinea for processing of their protection claims and resettlement. But there are fears for the safety of refugees attempting to begin a new life in both countries, following allegations of rapes against Somali women on Nauru and the death of Reza Barati inside the detention camp on Manus Island.

But the Coalition and Labor argue that permanent resettlement must be denied to any asylum seeker who arrives by boat to discourage them from travelling to Australia in dangerous leaky boats, chartered by people smugglers.

<http://www.smh.com.au/federal-politics/political-news/coalition-government-in-talks-to-resettle-refugees-in-the-philippines-20151008-gk4u5m.html>

26. Lindsay Murdoch: Something Australians need to know about the Philippines ahead of refugee deal

Sydney Morning Herald
October 9, 2015 - 3:06PM
Lindsay Murdoch

When I hired a Filipino journalist to help me report a story in Manila he turned up at my hotel with a loaded pistol tucked into his belt. I need to protect you," he said.

Across the Philippines, signs outside restaurants, shops and office buildings ask patrons to deposit firearms before entering, a sign of a deep-rooted gun culture in the former American colony.

It was revealed on Friday that Australia has been secretly negotiating with the Filipino government to send refugees from Nauru and Manus islands to the Philippines, the country in Asia most vulnerable to typhoons, floods, earthquakes, landslides, tsunamis and volcanic eruptions.

But if an agreement is reached, Australia would also be sending its unwanted refugees to resettle in one of Asia's poorest nations with one of the world's highest rates of crime.

Australia's own smartraveller.gov.au paints a grim picture, warning of a high level of serious crime, describing violent crime in particular as "a significant problem."

The advisory says gun ownership is widespread and poorly regulated.

"Gunfights between police and criminals are common, including parts of Manila frequented by foreign nationals," it says.

Smartraveller warns Australians to "exercise a high degree of caution" because of a high threat of terrorism attacks, including bombings, anywhere in the Philippines.

It also warns of a high threat of kidnapping, particularly where kidnap-for-ransom gangs are operating across the wide area of the southern Philippines.

While the 7000-island nation has emerged recently as Asia's fastest-growing economy, that is coming off a low base, with a gross domestic product per capita income of \$3900 at the end of 2014, far less than most other regional countries.

More than 27 per cent of the country's 98 million people live in poverty on incomes of less than \$504 a year.

You don't have to go far into Manila's suburbs to see grinding poverty with people living hand to mouth each day.

Many of the slums in Manila, which has a population of 1.6 million, are worse than those in Jakarta, with a population of more than 10 million.

The Philippines is not a surprising choice for Australia to try to resettle refugees. The country is one of only three south-east Asian states that have signed the 1951 Refugee Convention.

Australia's previous attempt to reach agreement with Malaysia collapsed partly because Kuala Lumpur had not signed the refugee convention and lacked a legislative and administrative framework to formally address refugee issues.

Australia's deal with Cambodia has all but collapsed, as refugees detained in Nauru refuse to go to the impoverish nation despite Australia's offer of money, housing and job assistance.

However, Australia's negotiations with the Philippines to resettle refugees will have to be negotiated in a politically-charged environment ahead of national elections in May.

President Benigno Aquino, who would have to approve any deal, is serving his last months in power.

Rival contenders for office are likely to seize on news of the negotiations for political gain.

Like in Cambodia, opposition parties and non-government-organisations are likely to strongly oppose the Philippines taking refugees from a wealthy western nation, while little is being done to help millions of poor Filipinos.

The Philippines has a long history of coming to the aid of refugees and migrants.

Mr Aquino said in early September – at the height of the refugee crisis in Europe – that his country would like to do more to help them.

But he said with limited resources and millions of Filipinos living in poverty "the Philippines can only do so much".

Offering at the time to help some conflict-stricken refugees from Syria, Mr Aquino pointed out that his country took in 1200 Vietnamese boat people in the 1970s and 1200 European Jewish refugees who were saved from Hitler's Nazi Germany during the Holocaust.

In June, the Philippines said it was willing to take in some Bangladeshi and Rohingya boat people from Myanmar who have been turned away by Indonesia, Thailand and Malaysia. The history is there, the culture is there," Mr Aquino told journalists.

"We just want to make sure that we manage it properly, that we don't take in more than we can handle."

<http://www.smh.com.au/world/something-australians-need-to-know-about-the-philippines-ahead-of-refugee-deal-20151009-gk594a.html>

27. Philippines better than Cambodia for refugees 'losing their minds': advocates

Sydney Morning Herald
October 9, 2015 - 5:21PM
Nicole Hasham

A potential deal to resettle Manus Island refugees in the Philippines would be better than Australia's trouble-plagued deal with Cambodia and may offer solace to detainees who are "losing their minds", refugee advocates say.

The arrangement, if it proceeds, also offers a political release valve to the Turnbull government, which needs to find a solution to the festering problem of offshore detention without appearing to waver on its tough border protection stance.

However Labor has questioned if a bilateral deal with the Philippines is "good economics" after the government "botched" the Cambodia deal by spending \$55 million to resettle four refugees from Nauru so far.

Immigration Minister Peter Dutton confirmed on Friday that refugees who travelled to Australia by boat could be permanently resettled in the Philippines under a deal being negotiated by the government. The arrangement would reportedly be worth about \$150 million over five years and involve refugees from Manus Island.

It is unclear if the Philippines would be required to accept a minimum number of refugees.

There are presently 934 adult male asylum seekers and refugees at Manus Island. The Papua New Guinea government has not resettled a single refugee despite pledging to do so.

In the past two years, two asylum seekers have died on the island, gay detainees are allegedly mistreated and refugees released from detention are reportedly not allowed to work or move freely.

Pamela Curr of the Asylum Seeker Resource Centre said to refugees, the Philippines would be "more attractive than going to Cambodia".

"Cambodia is a rather repressive regime and as we can see from the four people who went there, they are not exactly moving freely in the community [and] we know they are not terribly happy," she said.

Ms Curr said while the Philippines was not a perfect solution, refugees on Manus Island "face all sorts of problems, as well as losing their minds".

But she questioned why Australia still refused to resettle the refugees, and why the government was "going around the impoverished ... states of the world looking for a place to dump people".

Sydney University international law professor Ben Saul said the Philippines was a developing country but "it's not dirt poor, has a very strong constitutional bill of rights and a strong culture of human rights protections under domestic law".

"It does face internal conflict in the south and there's lots of corruption and governance problems but it's nowhere near as underdeveloped, politically unstable and authoritarian as Cambodia," he said.

The federal government continues to face public pressure to bring a woman allegedly raped at Nauru to Australia for an abortion.

Mr Dutton on Friday indicated the woman was not currently in a condition to travel, but suggested this may change and "I will do what is in the best interests of the individual person based on the medical advice available".

The first group of an emergency intake of 12,000 Syrian refugees is expected to arrive in Australia before Christmas. Mr Dutton said 1000 refugees had been referred to Australian officials for processing in the Middle East, while others had been "screened out".

<http://www.smh.com.au/federal-politics/political-news/philippines-better-than-cambodia-for-refugees-losing-their-minds-advocates-20151009-gk5763.html>

28. Manus Island detainees 'have not been told' of Philippines resettlement plan

Ministers confirm talks with Philippines, but Guardian Australia spoke to several asylum seekers on Manus and only one would consider resettling there

The Guardian
Ben Doherty and Daniel Hurst
Friday 9 October 2015 14.26 AEDT

Asylum seekers and refugees on Manus Island say they have not been formally told of any plan to resettle them in the Philippines, and believe few would accept any offer to move to the south-east Asian archipelago.

Australia's foreign minister, Julie Bishop, and the immigration minister, Peter Dutton, have confirmed they are talking to their counterparts in the Philippines over a refugee resettlement deal that would reportedly cost Australia \$150m over five years.

It's believed any resettlement deal, which still requires the approval of Philippine president Benigno Aquino, would be similar to the Australia's \$55m deal with Cambodia to resettle refugees held on Nauru.

Only four people have so far taken up the offer to move to Cambodia from Nauru under that deal.

Guardian Australia spoke to several of the men held in detention on Manus Island. Only one said he would consider resettling in the Philippines, a move the Australian government has stressed would be voluntary.

"I think the majority of people don't want to go to the Philippines," one man told Guardian Australia. "The Manus space is full of stress and all of people are talking about this news and really I did not hear from anyone [wanting] to go to Philippines. But I think maybe they can find a little per cent of people to go there."

"All of the people are angry because they are saying the Australian government put us in the suffering situation for 27 months as a hostage and after long time they want to send us to Philippines ... I think this policy is like modern slave trade."

Another refugee said he would consider volunteering for resettlement. .

"I heard this news, I thought I am sure to go, with the help of God," he said. He said only a few would accept the offer, but "we are happy to go".

Authorities have not formally notified people held on Manus of a Philippines resettlement deal.

"Immigration never say you maybe go to a third country, they always say you will go to PNG, [or] they just threatened people to deport," one man said.

Speaking in Canberra on Friday, Dutton said negotiations with the Philippines were being conducted in "good faith on both sides", but that the details of any deal would remain private until there was a formal agreement.

"I think we're best to discuss those issues in private with those partners and if there's an announcement to make we can announce it," he said.

"If we can strike an agreement that is in the best interests of our country and from the Philippines' perspective, their country, we will arrive at that point."

Dutton emphasised that the proposed deal would not compel people to travel to the Philippines, and reiterated they would never be settled in Australia.

"It will be on a voluntary basis ... that person will take up that offer or reject it, but they are not coming to Australia."

Bishop's office said the foreign minister had discussed "irregular migration, people smuggling and human trafficking" in a meeting with her Philippine counterpart, Albert del Rosario, in the margins of the UN general assembly in New York last week.

The Labor leader, Bill Shorten, said his party supported regional resettlement of refugees but hoped the government did not repeat "the Cambodia debacle" which has moved only four people to the impoverished south-east Asian country at a cost more than \$10m a person.

Another two people on Nauru are said to be considering moving to Cambodia.

"Labor supports, in principle, constructive negotiations with the Philippines, but we're just worried the Liberals tend to announce their achievements before they've actually occurred," he said.

Labor's immigration spokesman, Richard Marles, said the opposition wanted to ensure that any proposal offered permanent, safe outcomes for refugees, with access to health, education and settlement services.

Marles said the government must provide a meaningful resettlement plan for the people on Manus and Nauru because it could not "let people languish indefinitely within processing facilities".

Greens senator Sarah Hanson-Young said the government would "be throwing good money after bad" if it pursued a Cambodia-style deal with the Philippines.

"The deal with Cambodia is in shambles and, instead of recognising their mistakes, the government is trying to set up another dodgy deal," she said.

“Treating refugees as human cargo in a trade deal with the Philippines is shameful.”

The Philippines is a more likely proposition for refugee resettlement than Cambodia. It has an established record of resettling refugees from across the region, including running a regional processing centre in the 1980s to manage resettlement of refugees fleeing conflict in Indochina.

And in May this year, when thousands of Rohingya refugees on boats were being pushed back into the ocean and left to die at sea by the navies of south-east Asian countries, it was the Philippines that broke the impasse, agreeing to accept several thousand refugees, and spurring other countries to allow boats to land.

The Philippines is a party to the 1951 refugees convention, which protects the rights of refugees living within its borders, and, unlike Cambodia, signed the convention of its own volition. Cambodia was signed up to the refugees convention in 1992 by the United Nations Transitional Authority in Cambodia, which was running the country to enforce a ceasefire after war with Vietnam and civil conflict following the fall of the Khmer Rouge regime.

<http://www.theguardian.com/australia-news/2015/oct/09/manus-detainees-have-not-been-told-of-philippines-resettlement-plan>

29. Australians' sympathy for refugees could be eroded by terrorism, resettlement head says

New South Wales refugee coordinator Dr Peter Shergold praises the ‘wave of sympathy’ towards migrants but says support is ‘fragile’ and could be eroded

The Guardian
Ben Doherty
Thursday 8 October 2015 08.51 AEDT

Australians have offered their homes and cars, as well as English lessons and healthcare, to the 12,000 Syrian and Iraqi refugees who will come to Australia over the next 15 months, the man in charge of resettlement in NSW says.

But Dr Peter Shergold says the “wave of sympathy” towards migrants fleeing Middle East conflicts is “fragile”, and domestic incidents of Islamist terrorism can erode public support.

Last month the federal government announced it would resettle 12,000 of the most vulnerable refugees who have fled the conflict in Syria and Iraq for camps in Turkey, Lebanon and Jordan.

Shergold, a former head of the Australian public service, has been appointed as the New South Wales coordinator-general for refugee resettlement. He said his office had since been inundated with individual offers of support – from rooms and homes to live in, to transport, English classes and healthcare.

“It became clear to me from the moment I was tasked to take on this role ... that there was this really huge wave of sympathy ... because I started to get email messages and text messages [saying] ‘can I help, I really want to contribute in some way’.

“Within 48 hours we thought ‘we’d better help to do this’.”

Swamped with offers of individual support, Shergold’s office has established the I Can Help website to connect people wanting to assist community organisations who help refugees.

But he said he was conscious public support for migrants fleeing Islamist violence in the Middle East could be weakened by domestic acts of terrorism, such as last Friday’s shooting of a police employee by 15-year-old Farhad Jabar in Parramatta.

“I’m not silly, I know it [public support] is fragile,” Shergold said, “there will always be people who make these links between terrorism and accepting refugees. We do have to remind people that we do have this proud history of accepting refugees, and that the refugees that we are accepting are the ones who have borne the greatest pain.”

Shergold said the 12,000 refugees would be selected by the UNHCR and the federal government from camps in Turkey, Lebanon, and Jordan, with priority given to the “most vulnerable” groups.

“The focus will be on persecuted minorities, those with virtually no chance of being able to return home to live full lives. Women and children and families will have priorities.”

But no preference would be given to any religious group, Shergold said.

The refugees will be granted permanent visas to Australia and encouraged, over time, to become citizens. There will be no residential restriction placed on the refugees, but between 4,000 and 7,000 are expected to settle in NSW.

The cohort of 12,000 Syrian and Iraqi refugees, the first of whom are expected to begin arriving late this year, is in addition to Australia's annual humanitarian intake of 13,750.

Shergold said he expected the resettled refugees to be an economic and social boon for Australia – an example of “hip-pocket multiculturalism”.

“I have never met a refugee to Australia who came with the intention of living on welfare ... they want to succeed.

“These are people, predominantly but not exclusively young, people with the opportunity to build their lives here, and as they build their lives to give back to Australian society.”

Shergold declined to comment on the situation of Australia resettling Syrian and Iraqi refugees from camps in the Middle East, while holding other Syrians and Iraqis, who fled the same conflict at the same time, in detention in Nauru and Manus Island.

Shergold was head of the Department of Prime Minister and Cabinet in 2007 when the federal government decided to close the Nauru detention centre for the first time, but declined to comment on whether he believed it was a sustainable and practical solution to boat arrivals.

“I'm not going to get into the politics of it.”

<http://www.theguardian.com/australia-news/2015/oct/08/sympathy-for-refugees-eroded-by-australian-terrorism-resettlement-head>

30. Peter Dutton appeals against ruling on asylum seeker data breach

Immigration department decides to contest ruling that it denied procedural fairness to asylum seekers whose personal details were disclosed

The Guardian
Paul Farrell
Wednesday 7 October 2015 17.54 AEDT

The immigration minister, Peter Dutton, is appealing against a landmark federal court decision that found his department's response to a major data breach of asylum seekers' personal details was “unfair to a significant degree”.

On Wednesday Crikey revealed the minister was seeking to appeal against the decision in the high court.

The federal court ruling found the immigration department's response to a data breach disclosing the personal details of thousands of asylum seekers in detention – revealed by Guardian Australia in February 2014 – had not provided procedural fairness to affected asylum seekers.

The judges then went on to say a direction given by the immigration minister, who at the time was Scott Morrison, essentially set asylum seekers up to fail.

A spokeswoman for the immigration department said in a statement: “On 30 September 2015, the minister filed an application for special leave to appeal in the high court from the full federal court's decision.

“As this matter is presently before the court, it would not be appropriate to comment further.”

The case is likely to have broad ramifications for asylum seekers affected by the data breach, but will also be a significant test for the new maritime and migration powers amendment that was passed during Morrison's time as immigration minister.

In its response to the data breach, the immigration department sought to rely on new immigration powers that were not passed until December 2014 to allow them to move forward with deporting asylum seekers affected by the breach. A new section of the Migration Act outlines that Australia's international non-refoulement obligations are “irrelevant” to the removal of asylum seekers.

But the federal court adopted a narrow interpretation of the provision in how it applied to the removal of asylum seekers, and also ruled it could not be applied retrospectively.

The federal court ruling said: “The immediate issue is whether [the new section, 197C] could apply to proceedings which were already on foot. The answer is that it could not. On the day before the act was reworked by the amending act, the form of the act as it then was ... gave SZSSJ a right not to be removed until a procedurally fair assessment of his non-refoulement claims was conducted.”

Michaela Byers, the solicitor representing two of the asylum seekers in the data breach case, said it would be an important test for the new provisions, and for asylum seekers affected by the breach.

"This decision essentially reverts the law back to what it was. It's a very narrow interpretation of the section surrounding removals," she said.

She added that not all asylum seekers whose details were exposed were necessarily safer as a result of the decision. Asylum seekers still needed to apply to the federal court for judicial review after going through tribunal proceedings.

"The data breach itself is not a safeguard. They still need to engage all the normal processes. If they're appearing before the tribunal they still later need to apply to the federal court," she said.

The privacy commissioner, Timothy Pilgrim, found the immigration department had breached privacy laws over the data breach. A number of asylum seekers still have privacy complaints before the commissioner.

The high court will need to hear an application to determine whether it will allow the appeal to proceed to a full hearing. A special leave hearing has not yet been set down by the court for the case.

<http://www.theguardian.com/australia-news/2015/oct/07/peter-dutton-appeals-against-ruling-on-asylum-seeker-data-breach>

31. Asylum seeker Mohammad Albederee marks six months of hunger strike on Manus Island, fears he will die soon

ABC News Online

By Eric Tlozek

First posted Fri 9 Oct 2015, 3:46am

Updated Fri 9 Oct 2015, 5:18am

An Iraqi asylum seeker detained on Manus Island is marking six months since he began a hunger strike in protest at his treatment by centre staff. Mohammad Albederee said he stopped eating because he was refused proper medical treatment after he was badly beaten by security guards. He was taken to Port Moresby for medical treatment but said he spent the visit in a motel under constant guard and was brought back after 12 days.

"The security hurt me, broke my shoulder, hurt me too much and me lost feeling," he said. "[I had] some cut in my leg. I cannot move my leg, I cannot move my neck."

The 31-year-old father of three said he was left in constant pain and suffered debilitating injuries. "After this I feel very, very tired," he said. "I feel pain all the time, pain in my shoulders, pain in my kidney and stain in my urine all the time, blood." Mr Albederee said he has not kept any food down for six months. "I'm not eating because I can't eat because it makes me pain in my chest," he said. "This is very, very hard for me. I'm very sad about this because I think I will die."

Albederee 'cut stomach open to prove there was nothing in it'

The Department of Immigration and Border Protection said in a statement that it was providing appropriate medical care for him at the detention centre on Manus Island. It said it thoroughly investigates allegations of misconduct by contractors, but did not specify if Mr Albederee's case had been investigated or if any action had been taken.

"The Department takes seriously any allegation of misconduct by service provider staff," the statement said. "These are investigated thoroughly and an appropriate course of action is taken. Detainees have a number of options available to them to report any instances of excessive use of force; this includes the PNG Police."

Mr Albederee said when his condition worsened, he tried to eat again, but was unable to keep anything down.

"Vomiting anything, drink water, vomit, tea, vomit," he said. "Anything eat, I can't keep anything inside my stomach."

Doctors and asylum seeker advocates have raised Mr Albederee's case with the Department and Immigration Minister Peter Dutton.

Asylum seeker advocate Jeanie Walker said that did not help. He became really distressed so he cut his stomach open to prove there was nothing in it."

The Iraqi Embassy in Canberra has also raised the case with the Australian Government. Staff there fear Mr Albederee will soon die if he is not brought to Australia. Ms Walker agrees. "I think we're dealing with someone who's very, very strong-willed," she said. "He shouldn't still be alive but he's also now struggling with fluids, so he's not going to be around for much longer."

<http://www.abc.net.au/news/2015-10-09/hunger-striking-asylum-seeker-fears-he-will-die-soon/6839516>