

# Project SafeCom News and Updates

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# 1. Major parties' taxpayer-funded pre-election campaigns criticised by audit office

Report questions process behind approval of Labor's 'By Boat, No Visa' asylum campaign and the Coalition's higher education ad blitz

The Guardian  
Katharine Murphy Political editor  
Thursday 20 October 2016 06.09 AEDT

The Australian National Audit Office has said incumbent governments splurge on taxpayer-funded advertising in the lead-up to elections, with a clear trend established over the past five federal campaigns.

A new report into government advertising between March 2013 and June 2015 has also determined that the federal government's campaign advertising framework was "weaker than it could be" because of changes in the government's internal third-party advisory processes.

The latest audit has clearly established the trend of the pre-election splurge. "Increased expenditure has been observed prior to the last five elections," the audit office says.

"In 2013 and 2016 around \$100m and \$95m respectively, was spent on media placement alone in the three months leading up to the caretaker period."

In a non-election year, the average annual spend is \$186m.

The audit office examined a number of campaigns undertaken between 2013 and 2015, including the controversial "By Boat, No Visa" campaign Labor ran before the 2013 election.

That campaign was controversially exempted from the government's guidelines governing taxpayer-funded advertising on the basis that communication with voters was considered urgent, but the audit office said the blitz was expected to comply with the underlying principles of the guidelines.

It said that didn't happen. "The usual order of expenditure approval, contracting and service delivery was not observed in the procurement of media placement and research services."

The audit office also questioned whether a higher education reform advertising campaign undertaken by the Abbott government contained accurate and verifiable information.

It said a key statement in the campaign: "The Australian government will continue to pay around half of your undergraduate degree", was reasonable "for the first year, 2016, with students subject to the existing arrangements taken into account".

"However, the statement is not as strongly supported in the subsequent years, and for all new students to whom the reforms were to apply," the audit office said.

"The statement could also have been misinterpreted by potential students and their families because, at the individual level, the government's contribution to different courses varies considerably."

It suggested the government's internal processes for clearing advertising campaigns be strengthened.

It said campaigns were reviewed by an independent committee too early in the process. "The early timing of the committee's review of campaigns means that it is not in a position to provide a high level of confidence to entity chief executives – and by extension the parliament and community – regarding a campaign's compliance with the guidelines."

"At present, the committee reports on whether a campaign is capable of complying with the guidelines, as it does not review final campaign materials and other relevant information," the audit office said.

It recommended the processes be altered to allow review at any stage of a campaign's development.

<https://www.theguardian.com/australia-news/2016/oct/20/major-parties-taxpayer-funded-pre-election-campaigns-criticised-by-audit-office>

## 2. Graham Readfearn: Why the attack on 'foreign-funded' environment groups stinks of hypocrisy

Supporters of coal projects want transparency and proper use of charity status – but only when they support their arguments

The Guardian

Saturday 29 October 2016 08.00 AEDT

Graham Readfearn

You might have noticed that all of a sudden, Australians are supposed to be appalled by foreign interests getting in the way of us digging up as much coal as we want, thanks very much.

Last weekend the Australian newspaper started running stories based on a “revelation” from the inbox of John Podesta, the chairman of Democratic nominee for president Hillary Clinton’s election campaign.

One email forwarded to Podesta showed the philanthropic group the Sandler Foundation, based in San Francisco, was a funder of Australian group the Sunrise Project. The emails were published by WikiLeaks.

Sunrise, run by the former Greenpeace campaigner John Hepburn, has been involved in supporting some of the court cases brought against proposed coal projects – chiefly, the massive Adani coalmine in Queensland.

According to an editorial in the Australian, “thinking Australians” should be “appalled” by this news.

On the back of these stories, there have been shouts for more transparency, while Turnbull government ministers have used the coverage as a pivot to call for environment groups to be stripped of their charitable status. The climate change impacts of burning coal, meanwhile, have been summarily discounted or ignored.

So let us count the ways that Australians should not be “appalled” and, on the way, examine some of the bald hypocrisy that has been on display this week.

We should start with the way that while the “foreign influence” of a US philanthropic organisation concerned about the impacts of climate change counts as “appalling”, apparently the “foreign influence” exerted by the Indian-owned mining company Adani doesn’t.

This, despite the way Adani has cajoled, wined, dined and lobbied the Queensland government.

Both the Minerals Council of Australia and its regional counterpart the Queensland Resources Council have also been “appalled” at the foreign influence, despite both groups having a board with directors from foreign-owned mining companies and taking annual membership fees from foreign-owned companies.

The Queensland Liberal National party MP George Christensen said he found it “concerning” that Sunrise was getting funding from a foreign source.

“What are their motives? I just think something stinks about this,” he told the Daily Mercury in Mackay.

So Christensen is concerned about foreign funding to support environment groups fighting fossil fuel expansion but is more than happy to have the US-based Heartland Institute pay for his flights and hotel so that he can hang around with climate science deniers in Las Vegas?

Brendan Pearson, the chief executive of the MCA, wrote in the Australian that: “This episode should prompt a rethink of the oversight of environmental groups that operate as charities and that have tax-deductible recipient status.”

Why only “environment groups”? Why not take a look at the tax-deductible recipient status of all charities, such as the Institute of Public Affairs?

I’m picking on that particular Melbourne-based “thinktank”, because it has been producing reports of questionable quality about the “life-saving potential of coal” and, this week, released research claiming legal challenges brought under the Federal Environment Protection and Biodiversity Act had cost “up to \$1.2bn” since 2000.

If we want to pick reports from thinktanks to bolster arguments, then we could point to the Australia Institute’s Great Barrier Bleached report suggesting that about \$1bn in tourism income could be lost every year in Queensland if severe bleaching of the Great Barrier Reef continues in the years ahead – bleaching clearly linked to the burning of fossil fuels including coal.

FULL STORY AT <https://www.theguardian.com/environment/planet-oz/2016/oct/29/why-the-attack-on-foreign-funded-environment-groups-stinks-of-hypocrisy>

### 3. 'It is not looking good for her': Coalition rounds on Gillian Triggs after she admits misleading Senate

Sydney Morning Herald  
October 20 2016  
Michael Koziol & James Massola

The federal government is already preparing to replace the embattled Human Rights Commissioner Gillian Triggs, with planning under way to choose her successor.

Professor Triggs is set to be recalled to Parliament to face another grilling from Coalition senators after she acknowledged misleading a Senate inquiry this week by impugning the reputation of a journalist who reported critical comments she made about Australian politicians.

Professor Triggs' appointment is due to expire in the first half of 2017 and, in the words of a senior government source, "by the time people are coming backing from their Christmas holidays the selection process will be well under way and she'll only have a couple of months left".

"She's bloody hopeless and she stands condemned [for misleading the inquiry]."

The Human Rights Commission president has regularly clashed publicly with the Coalition but the government appears to have decided it is better to ride out her final months in the job, because of the legal protections her job carries.

Professor Triggs told a Senate estimates hearing on Tuesday she believed an interview she gave to The Saturday Paper had been reported inaccurately, taken out of context and doctored by the newspaper's editors.

But a recording of the interview revealed the transcript to be accurate, according to the paper's editor Erik Jensen, prompting Professor Triggs to backflip on her accusations and correct her testimony to the Senate's legal and constitutional affairs committee.

"Upon further reflection I accept that the article was an accurate excerpt from a longer interview. I had no intention of questioning The Saturday Paper's journalistic integrity," she said in a statement.

"I have today written to the committee to clarify my statement. I answered questions regarding the article in good faith and based on my best recollection."

Despite the resignation in Coalition ranks that she will serve out her term, Coalition MPs rounded on her again on Thursday, with a general view among MPs that the issue was very serious.

Liberal senator Ian Macdonald, who interrogated Professor Triggs on Tuesday and in previous Senate estimates hearings, said he was "appalled that a senior statutory officer, highly paid by the taxpayer, would what seems to be deliberately mislead the Senate committee".

He said she would be given the opportunity to explain herself and "depending on what happens" the matter may be referred to a privileges committee.

"This is a very serious matter," Liberal senator Eric Abetz told Fairfax Media. "I would invite the Senate committee to establish the facts as to whether the recording as reported is correct.

"If it is correct then Ms Triggs has more than a bit of explaining to do. It is not looking good for her and it is not the first time she has embroiled herself in public controversy. Sadly a pattern is emerging."

Liberal MP Michael Sukkar was more blunt. "She's unfit for the office she holds," he said.

Labor senator Louise Pratt, however, defended the commission president and said she had endured "more than five hours of questioning before the committee, during which she was persistently questioned about conversations that she did not have transcripts of".

"Of course witnesses should always be truthful, and where made aware that their evidence is not true, correct the record as soon as possible, just as Professor Triggs has done."

Attorney-General George Brandis and former prime minister Tony Abbott declined to comment.

In the interview in question, Professor Triggs lambasted Australian legislators as "seriously ill-informed and uneducated", particularly about international law and the rule of law. "They don't even understand what democracy is," she said.

The human rights boss also expressed frustration about a fiery Senate estimates hearing last year, in which she was grilled for nine hours about alleged political bias and her controversially timed Forgotten Children report.

"I knew I could have responded and destroyed them – I could have said, 'You've asked me a question that demonstrated you have not read our statute. How dare you question what I do?' she told The Saturday Paper.

At Tuesday's Senate hearing, Professor Triggs said she believed that particular comment had been "put in by the subeditor" – an accusation of extreme journalistic malpractice. She also impugned the report as inaccurate.

"It is written by a journalist, and the comments were taken out of context from a much larger and considered interview," she said.

Professor Triggs has been a punching bag for conservative Coalition MPs ever since her controversial 2014 Forgotten Children report into children in detention. Then prime minister Tony Abbott called the report a "political stitch-up" and said his government had lost confidence in the eminent lawyer.

An official acting on behalf of Attorney-General George Brandis also sought Professor Triggs' resignation before the government launched its assault, which she refused.

<http://www.smh.com.au/federal-politics/political-news/it-is-not-looking-good-for-her-coalition-rounds-on-gillian-triggs-after-she-admits-misleading-senate-20161019-gs6g82.html>

## **4. Martin Flanagan: Manus and Nauru detention centres are like England's prison hulks in the Thames**

Sydney Morning Herald  
October 21 2016  
Martin Flanagan

Last month, comedian Anthony Morgan tweeted, "Manus and Nauru are the modern equivalents of rotting prison hulks in the Thames". I retweeted it. The government will dismiss this statement as hyperbole, but there is an important sense in which the two historical experiences are one.

The explosion in the number of convicted criminals in Georgian times came after the Industrial Revolution caused impoverished villagers to flood into the new industrial centres, creating waves of crime and disease. The government reacted by making its penal code more draconian. There were soon more prisoners than the overcrowded prisons could handle, hence the idea of storing the excess unwanted humanity in former warships rotting on the Thames.

After America won its independence and refused to accept any more convicts from England, the prison hulks were soon also filled to overflowing. The British Empire responded by finding a Nauru of its own. It was called Australia. Like the so-called "Pacific Solution", which shields the Australian public from the 21st century revolution that is mass migration and the 60 million refugees on the move around the globe, it was a case of out of sight, out of mind.

This week's Four Corners program was about teenage internees on Nauru. I will not forget the 15-year-old Muslim girl from Burma saying she argues with her mother. The girl wants to go back to Burma, where she is at risk of being raped or murdered, saying the chance of freedom she has there is preferable to her existence on Nauru.

Nor will I forget the two young men who knew the Iranian refugee, Omid Masoumali, who set himself ablaze on Nauru after being told he would be there for another decade. Masoumali's critics said he did it to get to Australia. As the young men said – who wants to get to Australia if it means arriving with life-threatening burns? (Masoumali died the next day). As for the four Australian teachers formerly on Nauru who spoke to camera, I thought they personified what is finest about their vocation.

I am currently reading a history from the time of the hulks, Joyce Marlow's *The Tolpuddle Martyrs*. It starts in 1835 with the wages of rural labourers being reduced from 10 shillings a week to six; their children are already semi-starved. The authorities have responded to the labourers' protests and riots by hanging the ring-leaders and transporting hundreds of their followers.

George Loveless, a Methodist lay preacher and farm labourer, takes what he understands to be a lawful path, starting one of the earliest trade unions, the members of which are required to take an oath of loyalty to one another. Under an archaic law to do with oaths, he and five others, known to history as the Tolpuddle Martyrs, are convicted and transported to Australia after a brief taste of the hulks off Plymouth. George Loveless ends up in Hobart, assigned to Governor Arthur.

I read a lot of histories and biographies about the Georgian period. In them, I find the social conditions from which we come, and to which we could return, laid out bare. With the passage of time, we can see the events of the period in a cool, detached way, free of rhetoric and distractions.

We see government ministers saying they have to enact the law to the letter or anarchy will prevail, we see most of the citizenry not affected by the crisis paying little heed, we see the odd brave individual standing up. It is in this sense that Nauru and Manus Island are the rotting hulks of our day and, as a Tasmanian, let me say that it is how they will be remembered.

<http://www.smh.com.au/comment/manus-and-nauru-detention-centres-are-like-englands-prison-hulks-in-the-thames-20161020-gs7dl4.html>

## 5. New York Times: Australia's Stranded Refugee Prisoners

New York Times  
By THE EDITORIAL BOARD  
Oct. 20, 2016

Four years ago, the government of Australia set out to stop migrants and refugees from reaching its shores by boat. It came up with a ruthlessly efficient policy under which people found at sea were sent to Manus Island in Papua New Guinea or to the nation of Nauru, each a tiny island in the Pacific, ostensibly the first step to being resettled.

While that arrangement largely stopped the flow of boats packed with people that set off from Indonesia weekly, it has landed these refugees — many from Iran, Myanmar, Iraq and Afghanistan — in what amounts to cruel and indefinite detention. A new Amnesty International report tells of the desperation of the roughly 1,160 people stuck in Nauru, which has a population of about 10,000. More than 170 of the refugees are children.

This policy costs Australian taxpayers a staggering \$419,000 per detainee a year and has made a nation that has historically welcomed immigrants a violator of international law. Australia's policy is at odds with its obligations under the 1951 Refugee Convention, which forbids transferring refugees to a place where they are likely to face harm and protects the right of people fleeing persecution to seek a safe haven.

Australia has gone to great lengths to prevent outsiders from seeing what goes on in these offshore prisons. The contractors who work there are subject to criminal prosecution for speaking publicly about conditions at the centers. Nauru, which has profited handsomely from the deal, has made efforts to shield the arrangement from scrutiny. In 2014, it raised the cost of a journalist visa from \$178 to \$7,126 and it barred a team from the United Nations Working Group on Arbitrary Detention from visiting.

Amnesty International found that suicide attempts among refugees and asylum seekers on Nauru have become disturbingly common. In late April, Omid Masoumali, a 23-year-old refugee from Iran, set himself ablaze in Nauru after shouting: "This is how tired we are. ... I cannot take it anymore." The following month, a Somali refugee, Hodan Yasin, set herself on fire. Mr. Masoumali died. Ms. Yasin survived, but suffered burns to 70 percent of her body.

Among the 58 refugees and asylum seekers Amnesty International interviewed, most said they experienced severe emotional distress. One Iranian man, according to the report, said his pregnant wife attempted to hang herself. She told him, "I'm homeless; I can't bring another person into this world."

While the number of refugees held on Nauru and Manus Island is small compared with refugee numbers in the Middle East and Europe, Australia's inhumane imprisonment of desperate people is a disgrace. The government should end its offshore processing of refugees and stop treating anyone who approaches its borders without a visa as automatically inadmissible. The United Nations can assist by redoubling efforts to resettle those stranded on the two islands and by putting pressure on Australia to change its policy.

<http://www.nytimes.com/2016/10/20/opinion/australias-stranded-refugee-prisoners.html>

## 6. Waleed Aly @ NYT: Australia's Poisonous Refugee Policy

New York Times  
By Waleed Aly  
OCT. 26, 2016

MELBOURNE, Australia — Governments tend to dislike being called torturers. That's why the George W. Bush administration went through such legal contortions to exclude waterboarding from the definition of torture. That this relied on a definition too idiosyncratic for anyone outside the Republican Party hardly mattered because it allowed President Bush to say, "the United States does not torture," with a straight face.

So on one level, when Amnesty International reported last week that Australia's system of offshore detention — in which asylum seekers heading to Australia by boat are intercepted and sent to camps in Nauru or Papua New Guinea indefinitely — "essentially amounts to torture," the Australian government's response was entirely predictable.

"I personally find that to be offensive," said the head of the immigration department, Michael Pezzullo.

“I reject that claim totally,” declared Prime Minister Malcolm Turnbull. “It is absolutely false.”

But that’s largely where the defense ended. Mr. Turnbull wasn’t about to engage in a legal argument on Amnesty’s claim. There was no need because he knows that ultimately not all that many Australians care all that much.

That’s been true for at least 15 years, when former Prime Minister John Howard prospered so handsomely from his asylum-seeker policies, from which the current program is derived. Repeated polling since 2013 shows that whatever those policies seem to be, somewhere between 20 and 30 percent of Australians think they should be even more severe. Around another 35 to 40 percent think the policy is about right. The view that our policy is too harsh tops out at around 27 percent.

These figures scarcely change, no matter how many reports come out from Human Rights Watch, the United Nations or Australia’s own Human Rights Commission.

You see, we’ve “stopped the boats.” That quote doesn’t come from anyone in particular. It’s everyone’s. Mr. Turnbull’s predecessor, Tony Abbott, most relentlessly repeated it, but it’s on high rotation in every government official’s playlist. Whatever the scandal, whatever the latest account of refugee children attempting suicide or detainees setting themselves on fire, it’s all anyone need say.

This is the great sedative of Australian politics: dulling our attention, rendering all else some indecipherable white noise we only vaguely register before we fall asleep. Then we can snooze through any bombshell. Even Amnesty’s language isn’t arresting anymore. Merely a year and a half ago a United Nations special rapporteur found systematic violations of the Convention Against Torture. None of it registers because as long as boats carrying asylum seekers aren’t making it to Australia, all is justified.

So Australia’s detention regime becomes virtuous, brutality repackaged as compassion. Those languishing in detention centers, even the people who die there thanks to violence or woefully inadequate medical care for simple afflictions, they’re just a warning to others who might be tempted onto a boat. It’s true the journey is deadly, but it’s also true that Australia is using the more than 1,200 other people stuck in limbo in Nauru and Papua New Guinea as a deterrent. These are the starkly utilitarian terms of the policy: We sacrifice the lives of innocent people to dissuade others from risking theirs.

This rhetoric masks an enormous problem. While Australia was adamant that anyone arriving by boat would be turned away forever, it has never had any idea where these people would ultimately go. Paying other countries to detain them could be only a stopgap measure. Eventually their refugee claims would be processed, and eventually they would need to be resettled somewhere.

And while we were sleeping, that moment arrived. Papua New Guinea’s highest court in April found the detention center there to be illegal, meaning the detainees must be sent elsewhere. Australia has paid Cambodia \$42 million to resettle refugees — only two have been successfully resettled. Otherwise, Australia resorts to persuading people to return home to the lands they’re fleeing — war-torn countries like Iraq and Afghanistan, among other menacing places.

We have traded a boat problem for a resettlement one. And in the meantime, lives are still being destroyed, just slowly.

It’s here we confront Amnesty’s most arresting finding: Australia’s policy is a kind of contagion, lowering global standards on refugee policy, shifting the boundaries of what nations now find acceptable.

The most direct example is Indonesia, which, partly at Australia’s urging, has sharply increased its own use of detention centers, criminalized the act of providing accommodations for anyone without a visa, and attempted to return boats headed for Indonesia back to the countries they had left.

But we’re also seeing a procession of European far-right nationalist parties — the U.K. Independence Party in Britain, the National Democratic Party of Germany and the Danish People’s Party — expressly hold Australia up as an inspiration. There are even individual voices of support from within mainstream conservative parties, like Britain’s Tories. It’s clear that Australia would like its policy to be adopted more broadly.

Successive prime ministers — most recently Mr. Turnbull in his September address to the United Nations — have encouraged the world to follow Australia’s lead. It’s the kind of thing you can say when you’re an island nation far removed from the theaters of human misery producing the current refugee crisis. But it’s not the kind of thing to which the world can afford to listen.

The human displacement is too deep, the numbers too large. And with a global problem this urgent, the very worst you could do right now is reach for a sedative.

<http://www.nytimes.com/2016/10/27/opinion/australias-poisonous-refugee-policy.html>

## 7. Richard Ackland: Nauru, detention, the ABC and us: putting misconceptions about Australia and refugees to rest

There are a number of uncertainties and confusions about holding refugees in pitiable Pacific states – here are the answers to the questions I regularly hear

The Guardian  
Monday 24 October 2016 13.50 AEDT  
Richard Ackland

The immigration minister, Peter Dutton, is concerned that revelations by Guardian Australia, the ABC and Fairfax could lead to more asylum seeker lives being lost at sea.

In the instance of the ABC, Dutton claimed the broadcaster has been “drinking the Kool-Aid” and was on a “crusade against government policy”.

The minister is also upset that the ABC didn't accept his offer of a live interview at the tail of last Monday's Four Corners, during which refugees, and in particular young children in detention, spoke of their experience on Nauru – their frustration, desperation and deterioration.

This is a well trod path, and even if the minister had appeared in our lounge rooms last Monday, he wouldn't have been able to add anything insightful.

We must be careful using the word “detention”, because in 2015 Nauru said that detainees were free to wander about the island – an invitation, as we know, to be bashed and abused by some of the locals. In this sense the whole island is a broad-acre Alcatraz.

Apparently, the only one faithfully toeing the party line on offshore detention is News Corp, which has morphed the issue into yet another of its clunky swipes at the ABC.

The ABC broadcast brings front and centre a number of uncertainties, confusions and misconceptions about holding refugees in pitiable Pacific states.

These are among the many questions I hear frequently, and here, I hope, is a handy explainer:

### ***1. The prime minister, Malcolm Turnbull, has claimed that what happens to refugees held on Nauru is the responsibility of the government of Nauru, not of Australia. Is this so?***

His statement is incorrect. The high court has recognised that Australia has responsibility for the people it detains offshore. The latest affirmation of this was in February this year in the M68 case.

Indeed, the Migration Act says the Australian government can take “any action” in relation to regional processing.

### ***2. Once people have refugee status, can they be held indefinitely on Nauru or Manus Island until a third country taken them?***

Yes, in practice. No, in theory.

The high court has said that detention is lawful as long as it is not indefinite. In other words, detention is supposed to be a condition precedent to “processing” so that refugees will move out of detention. The court has indicated that long-term detention without charge or trial would be beyond the power of the parliament as that would trespass on judicial functions.

In the meantime, there is a hiatus. Many people have been “processed” with the government offering them “packages” to either go back home, stay in Nauru or PNG, or to a third country that Australian is looking to bribe.

Most of the refugees have refused these enticements, as well they might. Voluntarily returning to the place from which you are fleeing doesn't make much sense, while many of the people of Nauru and PNG are hostile to refugees.

Of 551 Manus Island detainees assessed by the PNG government up to 31 May, 2016, 98% have been found to be refugees. Of those, 20 have been resettled in PNG. On Nauru, 77% of those “processed” are refugees and of those five have been resettled in Cambodia under the \$55m Australia-Cambodia refugee relocation agreement.

Signs of resettlement progress have not been visible. It can only be a matter time before the high court finds a case affording it the opportunity to say that detention has the characteristic of being indefinite and thereby unlawful.



In the good old days of the Pacific Solution (circa 2001-2008) the following countries admitted refugees who were detained on Nauru and Manus: New Zealand 401, Sweden 21, Canada 16, Denmark 6 and Norway 4.

The opposition leader, Bill Shorten, is still banging the drum for the “Malaysia solution” – even though Malaysia is not a party to the refugee convention.

### **3. Is Australia’s offshore detention processing policy in violation of international law, and if so what can be done about it?**

Yes, Australia has violated international law. In March 2015 the UN special rapporteur on torture, Juan Méndez, reported in relation to Manus Island that the conditions in which detainees were kept amounted to torture under the international convention against torture.

Australia is a party to the convention and as such would be required to “provide adequate detention conditions; end the practice of detention of children; and put a stop to the escalating violence and tension at the regional processing centre”.

The report found that Australia had failed to protect refugees from “torture or cruel, inhuman or degrading treatment”.

The Migration Act and the Maritime Powers Act also allow for the arbitrary detention of people and for their status to be assessed on the high seas without access to lawyers – both violations of international law.

Amnesty International’s most recent report on Nauru says the indefinite detention of refugees, particularly children, falls foul of the refugee convention.

Australia ratified the convention in 1951 and parts of it were incorporated into the Migration Act and as such were enforceable under Australian law. This included the principle of non-refoulement (returning a refugee to a place where their life would be threatened) and the requirement that the minister should grant a protection visa to a non-citizen where protection obligations arise.

The relevant bits of the refugee convention were removed from the Migration Act in the infamous December 2014 amendments and replaced by a definition of “refugee” narrower than that in the convention.

International conventions set “normative” standards for contracting countries, but individuals cannot enforce those standards unless they are incorporated into Australian law. Nonetheless, the high court has said in the 1995 case of *Minister for Immigration and Ethnic Affairs v Ah Hin Teoh*, that legislation should be interpreted by courts, as far as possible, in a manner consistent with our international obligations.

### **4. Can refugees leave Manus Island and Nauru?**

In theory, yes. In practice, no.

The refugee convention says, “The contracting states shall not apply to the movements of such refugees restrictions other than those which are necessary and such restrictions shall only be applied until their status in the country is regularised or they obtain admission into another country”.

Both Nauru and PNG have signed the convention and Nauru’s temporary protection visas allow refugees to leave and re-enter the country – as long as they don’t come to Australia. How they might leave, of course, is the problem.

Nauru and PNG’s temporary settlement visas also allow refugees to work and receive vocational and language training. PNG also offers a pathway to citizenship, however a large proportion of refugees in this category are too fearful to move into the local communities.

In April the PNG supreme court found the detention of refugees on Manus Island to be unconstitutional and a violation of their rights under the international covenant on civil and political rights.

It might be open for a generous benefactor to have large helicopters swoop down onto the offshore camps and remove the refugees. Similarly, a chartered vessel might draw up alongside and spirit them away to another jurisdiction that would offer them more acceptable permanent residency. Of course that would involve violations of airspace and territorial waters but it would be a violation for a noble cause.

### **5. Is there a solution?**

FULL STORY AT <https://www.theguardian.com/commentisfree/2016/oct/24/nauru-detention-the-abc-and-us-putting-misconceptions-about-australia-and-refugees-to-rest>

## 8. Guardian Australia wins three UN awards for the Nauru files

Series documenting the trauma and abuse of children on Nauru recognised by United Nations Association of Australia

The Guardian  
Guardian staff  
Tuesday 25 October 2016 08.57 AEDT

Guardian Australia's Nauru files series has won in three categories at the United Nations Association of Australia media peace awards.

The awards presentation in Melbourne on Monday, hosted by the ABC's Mary Guerin, showcased journalism that covered human rights in Australia.

The Nauru files, published by Guardian Australia in August, revealed trauma and abuse suffered by children on Nauru recorded in more than 2,000 incident reports. The series sparked a parliamentary inquiry and put Australia's asylum seeker policies back into the national spotlight.

The series won the awards in the print, online and protection of children categories.

The judges praised Guardian Australia's care and attention to detail in redacting the incident reports, and its innovative use of data journalism to publish the full reports.

Stories about Australia's asylum seeker policies featured heavily in the awards.

Documentary maker Eva Orner won the inaugural "protecting freedom" award for her documentary Chasing Asylum.

Other winners included ABC's Four Corners in the documentary category for its expose of detention of children in Northern Territory, and Waleed Aly and Tom Whitty, from Network Ten's The Project, in the social cohesion category, for their "Send Forgiveness Viral" campaign.

<https://www.theguardian.com/australia-news/2016/oct/25/guardian-australia-wins-three-un-awards-for-the-nauru-files>

## 9. Welcome to Australia celebrate refugees, cultural diversity at Walk Together rallies

ABC News Online  
First posted Sat 22 Oct 2016, 10:25am  
Updated Sat 22 Oct 2016, 10:37am

Thousands of people have taken part in Walk Together rallies across Australia in a gesture to welcome refugees and immigrants to the country.

The rallies, organised by Welcome to Australia, took place in more than 25 cities and towns and aimed to celebrate cultural diversity while promoting compassion and unity.

Welcome to Australia chief executive and former refugee Mohammad Al-Khafaji said the Australian walks had this year gone global.

"The walk is a loud declaration that thousands of Australians believe we are a nation known for our compassion, generosity and welcome," Mr Al-Khafaji said.

"A community in Anchorage, Alaska, heard about Australia's Walk Together celebration and they were really impressed with its symbolism and its power.

"Those Alaskans are holding their own Walk Together event this October to tie in with our walks in Australia this weekend."

Tasmanian Governor Kate Warner took part in the Hobart march and called on Australians to challenge the anti-Islamic views of One Nation senator, Pauline Hanson.

Professor Warner called on demonstrators to stand up and welcome refugees.

"She [Pauline Hanson] declared that Australia was being swamped by Muslims and in which she reiterated a call for a ban on Muslim immigration," Professor Warner said.

"I think it's so important for Australians who oppose her views to stand up and be counted.

"As Governor of Tasmania I'm very proud to stand up and say welcome to Australia to all asylum seekers and immigrants, no matter what colour or creed."

Hundreds of demonstrators attended the rally in Adelaide marching from the Torrens Parade Grounds to Elder Park.

Those who took part in the Adelaide event included state MP Nat Cook, former Greens senator Penny Wright and representatives from the Australian Federal Police.

Well-known Australians who took part in the event across the country included Missy Higgins, who performed at the Melbourne rally, Judith Lucy, Tom Ballard and political leaders from major parties.

<http://www.abc.net.au/news/2016-10-22/welcome-to-australia-hosts-walk-together-rallies-across-nation/7957122>

## **10. Jane Halton, the last of John Howard's departmental heads, steps down**

Jane Halton, the bureaucrat at the centre of the 'children overboard' affair, reflects on a career of toughness and discretion.

The Saturday Paper  
Oct 29, 2016  
Karen Middleton

Three days after Jane Halton ended more than three decades in the public service on October 14, the senate held its latest round of budget estimates committee hearings.

These regular showdowns are the parliament's opportunity to grill public servants about the expenditure of public money, right across government.

With 12 years as secretary of the Department of Health and two as Department of Finance secretary, Halton was the longest-serving departmental head – dean of the secretaries' corps. Upon her departure, the last of the Howard-era secretaries has left the stage.

Halton had become a supremo at estimates committee responses that were unruffled, sometimes withering and gave away the bare minimum. Last week, for the first time in 15 years, she wasn't there.

"I had to not watch," Halton told The Saturday Paper. "The thing about estimates is it's the place where you are forming up on particular issues, it's the place where it's going on."

Knowing she would not be there, Halton scheduled an interview and a series of mind-numbing administrative chores instead. She was "going cold turkey".

With vivid, red-framed glasses on the bridge of her nose, flame-red lipstick and the same short, practical haircut with an angular side-sweep of fringe that she's worn for decades, the first woman to run a central Australian government agency executed her estimates appearances with more than a hint of the exasperated tolerating the ignorant.

Her trademark phrase was: "Let me be clear..."

Halton was chuffed that one senator's congratulatory farewell was that he "never got one past" her. But it was in different senate hearings in 2002 that Jane Halton first rose to public prominence, during the inquiry into "A Certain Maritime Incident" – the events of 2001 that became known as the "children overboard" affair.

At the time, she was a 41-year-old deputy secretary in the prime minister's department running John Howard's people-smuggling taskforce.

The "children overboard" events unfolded in a climate of high anxiety soon after the September 11 terrorist attacks and involved federal ministers and a procession of others – military and civilian – wrongly declaring, through an initial miscommunication, that asylum seekers on a sinking boat had thrown their own children into the ocean.

It never happened. There was a sinking boat and desperate parents, but they clung tight to their children, as parents generally do. The political furore that erupted became a flashpoint, both for those anxious about Middle Eastern strangers and those furiously accusing John Howard's government of exploiting security fears and the plight of those fleeing tyranny for political gain.

Halton has not spoken publicly about those events since her bullet-dodging appearances in that inquiry. She remains reticent. But when pressed, she implies that others were dishonest.

FULL STORY AT <https://www.thesaturdaypaper.com.au/news/politics/2016/10/29/jane-halton-the-last-john-howards-departmental-heads-steps-down>

# 11. Asylum seekers face lifetime ban from entering Australia if they arrive by boat

New law to include refugees and will apply to any adult sent to Manus Island or Nauru since July 2013

The Guardian  
Gareth Hutchens  
Sunday 30 October 2016 10.09 AEDT

The Turnbull government plans to ban asylum seekers who arrive by boat from ever being allowed into Australia.

The ban will apply to any adult who has been sent to detention centres on Nauru or Manus Island since 19 July 2013.

It means adults who have previously tried to enter Australia by boat since July 2013, but who have chosen to return home, will never be allowed to get a visa to Australia – even as a tourist.

The government plans to backdate its ban to 19 July 2013, because that is when the former prime minister Kevin Rudd said: “As of today, asylum seekers who come here by boat without a visa will never be settled in Australia.”

The ban will not apply to children.

Malcolm Turnbull announced the plan on Sunday during a joint press conference with the immigration minister, Peter Dutton.

He said the law change was necessary to support key government border protection policies, including temporary protection visas, regional processing and boat turnbacks.

He said it would send the “strongest possible signal” to those who are trying to persuade asylum seekers currently on Nauru and Manus Island that Australia’s government would eventually change its policy and allow them to settle in Australia.

He said this was a “battle of will” against criminal people smugglers and Australians “should not underestimate the scale of the threat”.

“These people smugglers are the worst criminals imaginable,” Turnbull said. “They have a multibillion-dollar business. It is a battle of will. We have to be very determined to say no to their criminal plans.”

The government plans to amend the 1958 Migration Act to achieve its goal when parliament sits next week.

Turnbull said he expected Labor’s support for the legislation, given it was “entirely consistent with the party’s stated public position” from 19 July 2013.

“Mr Shorten now has the opportunity to express clear, unequivocal support for this very strong statement of long-standing Coalition, and so far as we understand opposition, policy,” he said.

“They must know that the door to Australia is closed to those who seek to come here by boat with a people smuggler: it is closed.

“We accept thousands of refugees and we do so willingly. But we will not tolerate any repeat of the people smuggling ventures which resulted in over 1,200 deaths at sea under the Labor party, and 50,000 unauthorised arrivals.”

Dutton said some asylum seeker advocates were still telling people on Nauru and Manus Island that they would be coming to Australia at some stage.

“And those people are living in false hope and it cannot continue,” he said.

“So today, through this legislation, we send a very clear message to all the parties concerned that Australia will never be an option for people to seek to come here illegally by boat.”

The deputy opposition leader, Tanya Plibersek, said it was too early to say if Labor would support the bill.

“It’s a distraction from Peter Dutton’s hopeless mismanagement of his portfolio,” she said. “It is extraordinary that, three years on, the government has not found third countries to resettle those people who are in limbo on Manus Island and Nauru.”

Turnbull dismissed the suggestion that the measure would be unfair to those deemed to be refugees who had tried to get to Australia by boat, given it would prevent them from getting any type of visa in the future.

“It’s a very clear, unequivocal message,” he said.

David Manne, from the Refugee and Immigration Legal Centre, said the government’s proposed ban appeared to be “completely unnecessary”.

"Why are these measures seen as necessary when the government for some time has said they have got things under control?" he said on ABC television.

Manne questioned whether the flexibility the government has to exercise humanitarian discretion would be lost in this change.

"It would not only be unnecessary this policy, but also extremely potentially counterproductive because there are always going to be people ... who simply cannot be resettled anywhere or sent back," he said.

The Greens criticised the announcement, saying the Turnbull government had "sunk to a new low" in its "latest attempt to punish innocent people seeking asylum".

"The proposed new laws are an escalation of the cynical race to the bottom, which sees our fellow human beings again used as a tool to seek domestic political advantage," the Greens immigration spokesman, senator Nick McKim, said.

"This is about absorbing nothing more than One Nation votes. As Amnesty International recently made plain, the mistreatment of people for a political purpose is torture.

"It runs contrary to international law and our obligations under the refugee convention. The government should have been aware of this, but of course they have just run the solicitor general out of office."

The One Nation leader, Pauline Hanson, welcomed the government's proposal, tweeting: "Good to see that it looks like the government is now taking its cues from One Nation. Just like last time."

<https://www.theguardian.com/australia-news/2016/oct/30/asylum-seekers-face-lifetime-ban-on-entering-australia-if-they-arrive-by-boat>

## **12. Manus Island, Nauru asylum seekers to be banned from entering Australia, Malcolm Turnbull says**

ABC News Online

By political reporter Dan Conifer

First posted Sun 30 Oct 2016, 7:42am

Updated Sun 30 Oct 2016, 11:42am

The Federal Government will soon move to ban refugees and asylum seekers on Manus Island and Nauru from ever coming to Australia, Prime Minister Malcolm Turnbull says.

The new law would cover those who tried to reach Australia by boat from mid-July 2013, and would block them from obtaining any visa, including tourist and business visas.

Mr Turnbull said the legislation would send a clear message.

"This will send the strongest possible signal to the people smugglers ... It is incredibly important that we send the clearest message," Mr Turnbull told a press conference this morning.

"They must know that the door to Australia is closed to those who seek to come here by boat with a people smuggler. It is closed.

"Those passengers will never settle in this country."

The legislation would also apply to people previously held on the Pacific islands but who have since left, including people transferred to Cambodia as part of a \$55 million deal.

People who arrived on Manus Island or Nauru as children would be exempt.

Despite the new law, the Immigration Minister would still have discretion to let people into Australia.

Making the law retrospective means it can be used on the nearly 1,300 people who are currently on Manus Island and Nauru.

Seventy-two per cent of those who have been through the camps have been assessed as being genuine refugees, according to the latest Operation Sovereign Borders press release.

The Opposition has accused the Government of making the announcement as a distraction.

"It's a distraction from Peter Dutton's hopeless mismanagement of his portfolio," Deputy Opposition Leader Tanya Plibersek said.

"It is extraordinary that three years on, this Government has not found third countries to resettle those people who are in limbo on Manus Island or Nauru.

"It's time Peter Dutton started doing his job and finding a permanent resettlement option for these people."

Policy 'rapidly destroying' refugees, advocates say

Refugee advocates said the plan was unacceptable.

Lawyer David Manne, from the Refugee and Immigration Legal Centre, said the move, expected to be introduced into Parliament next month, would punish refugees.

"The majority of these people are refugees, and the policy is rapidly destroying them," he said.

"This does nothing to address that fundamental question about where they are going to be taken so that they can rebuild their lives in safety and with dignity."

Save the Children said the decision would also cruel the chances of many refugees from reuniting with their families who are already in Australia.

"We know from our past experience working on Nauru that these kinds of announcements can lead to significant unrest and despair among the refugees and asylum seekers who are barely hanging on after spending, in many cases, over three years living in limbo," Director of Policy and Public Advocacy Mat Tinkler said.

"Without offering these children and their families a realistic, humane and viable resettlement option, the Australian Government is only further exacerbating the mental anguish and loss of hope that we have seen build on both Nauru and Manus.

"We have grave concerns that this kind of announcement will push people over the edge."

<http://www.abc.net.au/news/2016-10-30/manus-nauru-refugees-asylum-seekers-to-be-banned-turnbull-says/7978228>

### **13. Asylum seekers who come by boat banned for life under new laws**

Sydney Morning Herald  
October 30 2016 - 11:25AM  
Fergus Hunter & Michael Koziol

Asylum seekers who attempt to reach Australia by boat will never be allowed to enter the country, even if they are genuine refugees and seek to come as tourists decades later, under legislation to be introduced by Immigration Minister Peter Dutton when Parliament returns.

The lifetime ban will apply to all adults detained at the Manus Island or Nauru detention centres from July 19, 2013 - including those who have chosen to return home. Children who were brought by their parents or unaccompanied will be exempt.'

The government has long maintained that asylum seekers who come by boat will never be settled in Australia but the introduction of a lifetime ban on all visas, including for tourism, is tougher than expected.

Immigration Minister Peter Dutton signalled the measure is partly designed to stop refugees from marrying Australians and subsequently coming to the country on a partner visa, which he deemed "not acceptable".

Immediately seeking to pressure the opposition into supporting the policy, the laws are backdated to former Labor prime minister Kevin Rudd's declaration that anyone seeking to come to Australia without a visa would never settle here.

Prime Minister Malcolm Turnbull said the government was locked in a "battle of will" with "criminal gangs of people smugglers" and the new bill would reflect the Coalition's "long-standing" position, which he said was a bipartisan one.

"This will send the strongest possible signal to the people smugglers," Mr Turnbull said.

"It will send the strongest possible signal to those who are seeking to persuade persons currently on Nauru and in Manus that the Australian government will change its policy and allow them to settle here. It is incredibly important that we send the clearest message.

Asked about the difference between settling in a country and visiting on a temporary visa, the Prime Minister said the policy needed to be a "very clear, unequivocal message".

Mr Dutton said the new laws were partly designed to prevent refugee advocates marrying asylum seekers and bringing them to Australia on a partner visa, which he said was unacceptable.

"There is intelligence that I've seen about people wanting to travel to Manus Island to marry some of the people from the regional processing centre, to try and create a process where they might come here on a spouse visa," Mr Dutton said.

"That is not acceptable. We are not going to allow arrangements that would subvert the program and the success we've had."

Labor frontbencher Brendan O'Connor remained tight-lipped on the "vexed" matter, saying the opposition would have to see the legislation.

He signalled continued support for the principle of deterrence but also consideration of "whether there are unintended consequences of the legislation, whether it's too harsh, whether it's in breach of our own international obligations".

"With any legislation, you want to look at it and see whether in fact it's fair and reasonable and it's consistent with our own commitments internationally," he told Sky News.

Mr O'Connor, who was immigration minister in the second Rudd government, said the government "should be working out a way of having proper processing occur in those transit detention centres so that there can be some confidence in the system. People are being left indefinitely in detention centres in our region and that is a failure of government not to have that processing occur".

Mr Dutton said the Coalition had successfully restored strength to Australia's immigration regime and immediately applied pressure to the opposition, questioning Mr O'Connor's comments.

"He of all people should know that this policy is required, it's necessary, and it deserves the support of the Labor Party. And it is concerning that Mr O'Connor is out there this morning, equivocating on whether or not the Labor Party will support the strong measure that we announced today. That is an issue for Mr Shorten to demonstrate his leadership on," he said.

The announcement has reignited speculation that an arrangement with New Zealand as a third-country place of settlement is possible, which could see Australia take up the country's offer to take 150 refugees a year.

The Immigration Minister said the government was in negotiations with a number of countries and that the removal of families from Nauru was a priority.

Greens Senator Sarah Hanson-Young, formerly the party's immigration spokeswoman, tweeted that the legislation "exposes nasty obsession with punishing refugees" and has "dangerous echoes of the White [Australia] policy".

"Turnbull's new laws to ban refugees ever visiting [Australia] is a clear breach of international law and the [refugee] convention," she said.

Outgoing Solicitor-General Justin Gleeson, who has resigned over his dispute with Attorney-General George Brandis, was not consulted about the proposed changes but Mr Turnbull said "extensive advice" meant he was "absolutely" satisfied it complied with international law.

<http://www.smh.com.au/federal-politics/political-news/asylum-seekers-who-come-by-boat-banned-for-life-under-new-laws-20161029-gsdvf7.html>

## **14. New transfer centre for detained asylum seekers set for construction, PNG Government says**

ABC News Online

By Papua New Guinea correspondent Eric Tlozek

Posted Tue 18 Oct 2016, 2:13pm

The Papua New Guinea Government has said construction will start soon on a new detention facility for asylum seekers being sent back to their country of origin.

The transfer centre will house men sent to Manus Island by the Australian Government whose refugee claims have since been rejected.

The PNG Immigration and Citizenship Advisory Service says the facility will be built near the Bomana jail outside the capital Port Moresby, close to the country's only international airport.

Construction was meant to start earlier this year but was delayed while title for the land was transferred from PNG Correctional Services.

The facility was initially announced in 2014.

Officials from Australia's Department of Immigration and Border Protection told Senate Estimates Australia would pay \$20 million for the centre's construction, but Papua New Guinea would pay its operating costs.

### ***PNG to maintain one regional processing centre***

In August, PNG and Australia announced the Manus Island regional processing centre was to close, following a meeting between officials from both countries.

Immigration Minister Peter Dutton said no-one from the centre would be resettled in Australia.

Earlier this month, PNG's Foreign Minister Rimbink Pato told the ABC one of Australia's offshore detention centres would remain open, despite a PNG Supreme Court order ruling that the detention of asylum seekers on Manus Island was illegal.

But Mr Pato claimed the order only applied to the Lombrum naval base facility, not the larger centre at Lorengau.

<http://www.abc.net.au/news/2016-10-18/new-detention-centre-set-for-construction-says-png-government/7943842>

## **15. Revealed: Nauru prosecutors under fire from judiciary in asylum-seeker cases**

Criticisms call into question Australian government's insistence that Nauruan system is capable of properly administering justice to the people it sends there

The Guardian

Paul Farrell

Sunday 30 October 2016 17.11 AEDT

A Nauruan magistrate has criticised the country's prosecutors over their handling of a case brought against a refugee on the island who threatened to set fire to himself and his family.

In a scathing rebuke the magistrate said the legal team was "ignorant of its prosecutorial duty".

A series of decisions from the district court of Nauru have recently been published online, giving a rare glimpse into the Nauruan justice system – which the Australian government and its immigration department have consistently maintained is robust and capable of handling complex matters.

These statements have been repeated following the Guardian's publication of the Nauru files, which revealed the devastating trauma and abuse inflicted on children held by Australia in offshore detention.

But the court decisions filed on the Pacific Legal institute's website show that questions linger over the capacity of the Nauruan police and prosecutors.

In one case the Nauruan police charged an asylum seeker for threatening to kill himself and his family. The man had made a disclosure of self-harm and threatened to set fire to himself and his family.

Nauru subsequently removed attempted suicide from its criminal code, on 28 April 2016, but the man was charged before this occurred – and a string of cases show that self-harm threats and attempts are still being prosecuted using the alternate offence of threatening to kill and arson.

The man's case proceeded to hearing in June 2016. The magistrate queried the prosecution's gathering of statements from key witnesses to the incident, who were all staff contracted by Australia to provide refugee settlement services.

One of the case workers employed by Connect Settlement Services gave a statement but then refused to sign it. The magistrate questioned why the prosecution had failed to appropriately take statements and explain this to the court.

"Does this court not need an explanation coming from the prosecution to enable this court to strike a balance in the exercise of its discretion on whether or not to grant bail to the defendant?" she wrote.

"I find this aspect of the prosecution submission, so strange and ignorant of its prosecutorial duty to assist the court."

The police and magistrate Emma Garo eventually ruled that the prosecution had failed to make out their case.

"The end result is there is no evidence before this court to show the defendant has a case to answer," she wrote. "The charge against the defendant is dismissed and the defendant is acquitted."

Other decisions raise further concerns about the conduct of the Nauruan prosecutors.



In another case where a case was brought against an asylum seeker for sabotage, prosecutors and police failed to take statements from an unnamed Filipino employee relevant to the case. Garo wrote that there was "no explanation" from prosecutors about why they failed to do so.

In another case, not related to any of the asylum seekers or refugees held in Australia's care, Garo criticised police for failing to execute an arrest warrant authorised for a case for a period of nine months.

"No explanation has been given to the court as to why there has been a delay in executing the bench warrants to have the defendant arrested and brought before the court," she wrote.

"In the absence of an explanation for the delay in executing the bench warrant, the delay must be deemed to be unreasonable and taken in favour of the defendant to mitigate in favour of a reduction in sentence."

And in a further case relating to an assault prosecution, Nauruan officers took a witness statement that was provided in Nauruan and translated it into English without taking any original recording.

Garo wrote that the situation left the police statements "tainted with such an unfairness" that they were inadmissible to the court.

"In this case we have the English translation as translated by the police without the Nauruan version being actually recorded.

"There is nothing to compare or even analyse whether the translations as are recorded are an accurate translation of what has been asked and answered in Nauruan. The absence of the Nauruan version of the interview, cannot take the prosecution case any further."

The Nauruan government has been contacted for comment about the handling of the cases.

<https://www.theguardian.com/world/2016/oct/30/revealed-nauru-prosecutors-under-fire-from-judiciary-in-asylum-seeker-cases>

## **16. Immigration department spends millions on leadership classes**

Sydney Morning Herald  
October 29 2016 - 11:00PM  
Adam Gartrell

They say true leaders are born not made, but the immigration department hopes millions of dollars of taxpayer cash can change that.

The Department of Immigration and Border Protection has paid Sydney-based strategic advisory company Bendelta almost \$4 million for "leadership training" since Peter Dutton took over the portfolio in December 2014, it can be revealed.

And the department has just signed a \$2.6 million contract with Bendelta for "leadership development workshops" to be delivered over the next nine months.

Government tender documents suggest hundreds of thousands of dollars went to Bendelta since early 2015 for "scenario based training", executive coaching and a guest speaker at a conference.

Bendelta specialises in bringing "transformational change" to organisations and helping their leaders inspire their workforce.

"At the heart of this is our ability to create exponential organisations by realising, harnessing and combining the unrealised human potential they possess," the company says on its website.

A spokesman for the department said that, as an organisation with more than 14,000 employees that has just had significant structural change, it had hired Bendelta to deliver programs "specifically tailored to our requirements".

"This approach is more cost-effective than sending staff to externally available programs at a higher cost which may not be directly relevant to our circumstances," the spokesman said.

The current contract includes leadership and coaching programs for almost 4200 staff, ranging from junior APS3 officers to senior executives.

Other departments have paid Bendelta for leadership courses but their bills have ranged between \$10,000 and \$800,000.

Contracts also show the department has embarked on a renewed "offshore" advertising campaign, spending \$150,000 a month to deter asylum seekers considering travelling to Australia by boat.

As previously revealed by Fairfax, the department also spent \$6 million on a slick telemovie to deter would-be refugees.

Last week it was revealed the department's paramilitary Australian Border Force had started a podcast to get its message out. Mr Dutton said the podcast was aimed at circumventing the "left-wing media".

<http://www.smh.com.au/federal-politics/political-news/immigration-department-spends-millions-on-leadership-classes-20161028-gsddc3.html>

## **17. MEDIA RELEASE: Port Moresby Court set for decision to return Manus refugees**

Refugee Action Coalition  
Tuesday October 25, 2016  
Ian Rintoul  
mobile 0417 275 713

A full bench hearing of the PNG Supreme Court, on Thursday 27 October, will consider an application on behalf of 302 Manus asylum seekers and refugees for the return to Australia of all those asylum seekers and refugees who wish to do so.

The lead counsel acting for the Manus asylum seekers will be retired Federal Court of Australia judge, Ron Merkel.

The application for Summary Judgement follows the PNG Supreme Court's finding in April that the Manus island detention centre is illegal and that the Australian and PNG government 'must take steps to cease the illegal detention of asylum seekers on Manus and the continued breach of their human rights'.

The summary judgement seeks the Supreme Court to order: (i) that the PNG and Australian government make all necessary arrangements for the transfer to Australia of all those applicants who wish to return to Australia within 30 days of the order of the court; and (ii) the governments of PNG and Australia make all necessary arrangements for the transfer to a third country (capable of offering them a durable solution) of those applicants who do not wish to return to Australia.

Lawyers acting for the Manus Island detainees have written to the Australian government have been invited to appear before the Supreme Court hearing on Thursday (letter attached).

The Australian government has previously tried to deny any responsibility for the Manus detainees despite the clear Supreme Court ruling on 26 April this year. It is also clear that the PNG Supreme Court has the power to make an order against the Australian government.

"The asylum seekers and refugees have been illegally imprisoned on Manus Island for over three years. It is six months since the PNG Supreme Court ordered that Manus Island be closed, but those orders have been ignore. The application for Summary Judgement will give the court the opportunity to put its decision beyond any doubt and see the detainees returned to Australia," said Ian Rintoul, spokesperson for the Refugee Action Coalition.

"The compensation payable for the multiple human rights breaches cannot begin to make up for torture that Operation Sovereign Borders has inflicted on people who sought protection from Australia.

"It is shameful that the Australian government has been willing to ignore the Supreme Court's earlier decision. Both the PNG Foreign Minister and the Nauru Prime Minister have appealed for international help to resettle refugees from their respective countries, but the asylum seekers and refugees have always been Australia's responsibility.

"We are hoping that very soon after the court hearing, we will see the first Manus Island detainees returned to Australia."

For more information contact Ian Rintoul 0417 275 713

## **18. PNG court dismisses Australia asylum seeker resettlements on technicality**

Reuters  
Thu Oct 27, 2016 | 4:16am EDT  
By Colin Packham, SYDNEY  
(Editing by Melanie Burton and Nick Macfie)

The Papua New Guinea Supreme Court on Thursday dismissed an application to send asylum seekers held on an isolated island to Australia on a paperwork technicality.

A ruling in favor of the 302 detainees would have ordered the PNG and Australian governments to transfer them to Australia within 30 days, a political nightmare for Prime Minister Malcolm Turnbull.

Under Australia's tough immigration laws, asylum seekers intercepted trying to reach the country by boat are sent for processing on PNG's Manus island and the tiny South Pacific island nation of Nauru.

The policy has won past elections and has bipartisan political support.

Lawyer Ben Lomai confirmed the case had been dismissed and that the detainees planned to refile the application.

The case was dismissed because the court filings were signed by the principal lawyer, Lomai, instead of the direct claimants, Ian Rintoul, a spokesman for the Refugee Action Coalition, who was present at the hearing, told Reuters.

"The reality is the refugees are facing longer in detention and that's extremely disappointing," he said. "The legal issues have not been resolved and it does not change the fact that these men are detained illegally."

The group will go back to Manus next week to collect the signatures but getting a hearing at the Supreme Court may be difficult, Rintoul added.

"We lost trust in any court or lawyer or justice," Behrouz Boochani, an Iranian who has been on Manus for more than three years, told Reuters.

Australia has vowed the asylum seekers will never set foot in the country after being intercepted by its navy and shipped to Manus.

Many of the asylum seekers have spent three years in the center, which the Supreme Court ruled in April was unconstitutional and must close.

For men like Abdul Aziz, 24, who fled his home in Sudan amid a bloody civil war, the court case had stirred hopes of finally leaving the center after 38 months.

"I'm optimistic that after the court case, I will be sent back to Australia. We are keeping our fingers crossed," Aziz told Reuters by telephone before the case was dismissed.

"We sought asylum from Australia, not PNG."

A ruling in favor of the 302 detainees would have set a precedent for all 823 detainees, asylum seekers predominately from Iran, Afghanistan and Pakistan.

The United Nations and human rights groups have condemned Australia's immigration policy, citing human rights abuses in the centers.

Many asylum seekers on Nauru are being driven to attempt suicide to escape the prison-like conditions they face in indefinite detention, Amnesty International said last week, amid reports of assaults and sexual abuse.

<http://www.reuters.com/article/us-australia-asylum-idUSKCN12R0H5>

## **19. Manus Island asylum seekers 'broken' after Supreme Court dismisses applications**

ABC News Online

By Papua New Guinea correspondent Eric Tlozek

First posted Fri 28 Oct 2016, 9:34am

Updated Fri 28 Oct 2016, 9:38am

The asylum seekers Australia sent to Papua New Guinea say they are devastated by the dismissal of a Supreme Court application to have them returned to Australia and compensated for being illegally detained.

Two court applications, on behalf of 590 men, have been rejected on technical grounds.

Lawyers for the PNG Government — paid for by the Australian Government — successfully argued the applications were invalid, because the men did not sign it themselves.

"The dismissal or the strike out is basically on technicalities," the asylum seekers' lawyer Ben Lomai said.

"We're disappointed at this stage, but at the same time it gives us much room as well to come back to court."

Mr Lomai was seeking to enforce a judgement of the Supreme Court in April that found detaining the men breached their rights under PNG's Constitution, and ordered the PNG and Australian Governments to close the centre.

He said the nature of their detention meant he was not able to meet the asylum seekers in person and get them to sign court documents when he first sought to represent them.

"Nobody could even access the centre including the lawyers, the journalists the lawyers and even some other international organisations," he said.

"So that's the reason why when we got instruction, it was done covertly."

### ***'The people are just broken'***

There are still roughly 800 men on Manus Island.

The PNG Government has allowed them to leave the grounds of the detention centre since the Supreme Court ruling, but those whose refugee claims have not been processed or have been rejected are still restricted from leaving the island.

Refugee Behrouz Boochani said the decision had left many people on Manus despondent.

"I talked with a lot of people just one hour ago and the people are just broken, they are so disappointed," he said.

Benham Satah, one of the applicants in the court case, said the decision allowed the Australian and Papua New Guinea Governments to leave the men in limbo for longer.

"They want to buy more time, because if we want to fill in this form it takes all this process again and who knows how long it will take for this?" he said.

Lawyer Ben Lomai is now planning to go to Manus Island to meet his clients and get them to sign a new application.

The delays and legal hurdles have left many of them disillusioned and some may not take part in a new court action.

Mr Satah said after three years on Manus Island the men felt they were being used by Australia, and they were becoming increasingly desperate about their situation.

"They just use you as a symbol of fear," he said.

"They just make you a symbol. Anyone whose life is in danger and wants to come to Australia, this is the place you end up."

<http://www.abc.net.au/news/2016-10-28/manus-island-asylum-seekers-broken-after-court-decision/7974164>

## **20. PNG court rejects asylum seekers' application to go to Australia on technicality**

Judge throws out application because court documents were signed by lawyer not applicants held on Manus Island

The Guardian / Reuters  
Friday 28 October 2016 10.49 AEDT

The supreme court of Papua New Guinea has dismissed an application to send asylum seekers held on Manus Island to Australia on a paperwork technicality.

A ruling in favour of the 302 detainees would have ordered the PNG and Australian governments to transfer them to Australia within 30 days, a political nightmare for Malcolm Turnbull.

Under Australia's immigration laws, asylum seekers intercepted trying to reach the country by boat are sent for processing on Manus and the tiny South Pacific island nation of Nauru.

Lawyer Ben Lomai confirmed the case had been dismissed and that the detainees planned to refile the application.

The case was dismissed because the court filings were signed by the principal lawyer, Lomai, instead of the direct claimants, Ian Rintoul, a spokesman for the Refugee Action Coalition, who was present at the hearing, told Reuters.

"The reality is the refugees are facing longer in detention and that's extremely disappointing," he said. "The legal issues have not been resolved and it does not change the fact that these men are detained illegally."

The group will go back to Manus next week to collect the signatures but getting a hearing at the supreme court may be difficult, Rintoul added.

"We lost trust in any court or lawyer or justice," Behrouz Boochani, an Iranian who has been on Manus for more than three years, told Reuters.

Australia has vowed the asylum seekers will never set foot in the country after being intercepted by its navy and shipped to Manus.

Many of the asylum seekers have spent three years in the centre, which the supreme court ruled in April was unconstitutional and must close.

For men like Abdul Aziz, 24, who fled his home in Sudan amid a bloody civil war, the court case had stirred hopes of finally leaving the centre after 38 months.

"I'm optimistic that after the court case, I will be sent back to Australia. We are keeping our fingers crossed," Aziz told Reuters by telephone before the case was dismissed. "We sought asylum from Australia, not PNG."

A ruling in favour of the 302 detainees would have set a precedent for all 823 detainees, asylum seekers predominately from Iran, Afghanistan and Pakistan.

The United Nations and human rights groups have condemned Australia's immigration policy, citing human rights abuses in the centres.

Many asylum seekers on Nauru are being driven to attempt suicide to escape the prison-like conditions they face in indefinite detention, Amnesty International said last week, amid reports of assaults and sexual abuse.

<https://www.theguardian.com/australia-news/2016/oct/28/png-court-rejects-asylum-seekers-application-to-go-to-australia-on-technicality>

## **21. Four Corners on Nauru: Dutton says ABC on crusade against Coalition border protection policy**

ABC News Online

By political reporter Uma Patel

First posted Thu 20 Oct 2016, 9:53am

Updated Thu 20 Oct 2016, 10:05am

Immigration Minister Peter Dutton has launched a scathing attack on the ABC's Four Corners program focused on Nauru, saying the broadcaster has been "drinking the Kool-Aid" and is on a crusade against government policy.

On Monday night, ABC aired a Four Corners program which detailed the experiences of 755 refugees living alongside the Nauruan community.

Mr Dutton said he declined an opportunity to conduct a pre-recorded interview for the program but offered to be available for a live interview after the program went to air, in order to provide details on refugees and asylum seekers on Nauru.

"We had offered to provide information to Four Corners, to the ABC, they didn't run it," Mr Dutton told 2GB this morning.

"We had offered to provide answers to questions and provide them with information that they could use as part of their program, they didn't take me up on the offer."

On Tuesday, the ABC's head of editorial policy, Alan Sunderland firmly stood by the Four Corners report on asylum seekers on Nauru.

"The program was accurate, it was well-researched, it was well-produced and it told a very compelling story," he told an estimates hearing.

"So I believe they did their job and they did it well."

He confirmed no ABC journalist travelled to Nauru for the story.

It is very difficult for journalists to obtain a visa to enter Nauru.

Mr Dutton told 2GB the report was "one-sided" and ABC's managing director Michelle Guthrie "has a lot to answer".

"I think the ABC has well and truly taken the Kool-Aid here and they're following the lead of Fairfax and some of the others who are on a crusade because they hate the fact that we've stopped boats and they believe we should have open borders and they've turned themselves into political operatives," he said.

He also had some advice for future coverage of refugees and asylum seekers on Nauru.

"They say that they're trying to help people on Nauru, well, the best thing they could do, along with some of the advocates here, is say to these people, 'take the package, go back to your country of origin'."

<http://www.abc.net.au/news/2016-10-20/peter-dutton-takes-aim-at-four-corners-program/7949834>

## 22. Gaven Morris: Journalists must be allowed to visit Nauru

Sydney Morning Herald  
October 21 2016  
Gaven Morris

It is a matter of obvious public interest for Australians to know what is happening to the people we send to Nauru and how our obligations under Australian and international law are being met.

To do this, the media must be able to freely investigate what is happening there.

Setting aside all the obstacles of a lack of access, a paucity of information and sometimes difficult dealings with governments, investigating this story is what Four Corners did on Monday night. It found a way to tell real stories about children who are detained on Nauru and the teachers who had been responsible for their education.

The Nauru Regional Processing Centre is operated on behalf of the Department of Immigration and Border Protection – that is, on behalf of the government of Australia; that is, all of us. Currently, Nauru is the living place of almost 1200 refugees and asylum seekers who under international law are the responsibility of Australia.

ABC News would rather have access to all aspects of the story – to be able to send journalists and crews to Nauru, to interview the widest array of people involved in carrying out the policy on behalf of Australians and to report as fully as we can on what we might find. This is what we do all over the world, from London to Port Moresby, from Nairobi to Mosul.

Each day, our journalists seek to provide an accurate and impartial representation of important stories, regardless of the interests of anyone, any party or any organisation. We believe this is what taxpayers expect of us in the national interest.

Unfortunately, we cannot do this on Nauru, because the government of Nauru does not like letting journalists in and often we only get access to selective information. The only thing to conclude from this is that journalists absolutely must get into Nauru, and that if we can't we must find other ways to tell the story.

In 2014 the Nauruan government increased the application cost of a single-entry media visa from \$200 to \$8000. This fee is non-refundable if the visa request is declined. The requests are usually declined. Approval is very selective. Applications from the ABC, The Guardian, SBS and Al Jazeera have all been declined. In October last year The Australian became the first newspaper allowed to officially visit Nauru in 18 months. No ABC News journalist has been allowed on the island since 2013.

Four Corners tackled the issue from another angle: telling the stories, in their own words, of some of the more than 100 children and young people who are currently on Nauru. In "The Forgotten Children" we heard in their own words about their experiences and what their lives are like. We also heard from some of their teachers who had a direct and first-hand understanding of the situation. It was difficult but important and compelling television.

This week ABC News has faced rigorous scrutiny of the report, including in a Senate Estimates hearing, which we welcome. Our short answer is that we stand by the program and the journalism.

Four Corners relied on a range of sources for its footage, including hiring a freelance camera operator on Nauru, as is routinely done on many stories. The key interviews with the children were conducted remotely by our journalists. We checked the veracity of all supplied footage used in the story through a number of sources.

The important point is that the program had to be made in this way, out of necessity, because we could not go in to see for ourselves on behalf of you.

Had it not been made this way, Australians might not get to hear these stories at all.

Gaven Morris is the ABC's Director of News.

<http://www.smh.com.au/comment/journalists-must-be-allowed-to-visit-nauru-20161020-gs72sw.html>

## 23. Martin MCKenzie-Murray: Culture war in offshore detention

The response to Four Corners' Nauru report underscores a shift in the immigration debate from human lives to media bias.

The Saturday Paper  
Oct 22, 2016  
Martin MCKenzie-Murray

This Monday, Four Corners aired its investigation into the plight of the 128 child refugees on Nauru. Barred from the country, the show relied on a third party to film interviews with the children before smuggling the footage to Australia. The stories of these children – interwoven with the testimony of Save the Children teachers who once taught them – reflected the entrenched mental disorders reported on in this paper and others. Children discussed suicidal thoughts and displayed evidence of self-harm. On the same day, Amnesty International released a report on the very same children, describing their conditions as a form of “torture”.

But discussions of our immigration policy is another casualty of the culture wars, so in the week of Four Corners airing an investigation of Nauru, it was the professionalism of the ABC, and not the nature and sustainability of our offshore policy, that became the cause célèbre for The Australian and the Coalition. Senator Jane Hume pointedly wondered in senate estimates this week if “all we heard on this program were the representatives of Save the Children and Amnesty and the stories they wanted to tell, and selected stories from the young people on Nauru?” Senator Eric Abetz suggested the ABC was conspiring with activists. The immigration minister, Peter Dutton, indicated he would write to the ABC's managing director to complain.

While the episode broadcast harrowing testimony, it was criticised for airing footage of buildings that had since been upgraded and of utilising “random” footage lifted from YouTube. “At the moment,” Dutton said, “these advocates dressed up as journalists, frankly at the ABC and Guardian and some parts of Fairfax, are compounding these people's problems because they are telling them ‘don't accept settlement packages, don't go back to your country of origin’ – even though hundreds of people before them have and many other people have been able to start a new life fresh.”

Dutton said refugee advocates had “completely taken over” the ABC and now “owned and operated the place”.

The Coalition's criticism of the ABC was of a piece with the Nauruan government, which excoriated our national broadcaster. “Last night's Four Corners program on the ABC was yet another example of the ABC's biased political propaganda and lies, and was an insult to the people of Nauru. This report was an embarrassment to journalism. From start to finish it was denigrating, racist, false and pure political activism.”

FULL STORY AT <https://www.thesaturdaypaper.com.au/news/immigration/2016/10/22/culture-war-offshore-detention/14770548003887>

## 24. Nauru refugees: Australia pays \$35.3 million per year for ‘island of despair’

Gold Coast Bulletin  
Debra Killalea, news.com.au  
October 17, 2016 8:07pm

IT MAY look like an island paradise from a distance.

But what goes on here is far from idyllic, and the government of Nauru is cashing in on it, earning a staggering \$35.3 million a year just for hosting Australia's immigration problem.

That is among the findings of a damning report by human rights group Amnesty International which found the government of Nauru is directly profiting from human despair.

In its report released tonight, Island of Despair, Amnesty reveal how Nauru charges the Australian Government a monthly fee of \$3000 per refugee and \$1000 per asylum seeker.

According to Amnesty the Government of Nauru “has received substantial benefits for permitting its territory to be used to hold refugees and asylum-seekers.”

The report also reveals how the two governments finalised a five-year plan which guarantees to Nauru annual revenues a minimum of AUD\$31.5 million from visa fees for refugees and asylum-seekers alone.

This does not include other costs associated with hosting the Refugee Processing Centre and is only what the Nauru government receives.

According to Amnesty figures the Australian government spent \$415 million on its Nauru operations in 2014/15 overall — about \$350,000 for each person held on the island.

Anna Neistat, Senior Director for Research, Amnesty International said Australians were paying a high price for a cruel and inhumane way of housing the world's most vulnerable people.

Ms Neistat, who has visited more than 60 conflict zones, said the abuse was hidden behind a wall of secrecy and it was time Australians knew what went on at the secretive island.

The researcher who visited the island in July said the levels of abuse she heard about were beyond shocking and Australia was leading the race to the bottom when it came to refugee protection.

A spokeswoman for Immigration and border protection Minister Peter Dutton said she was aware of the report.

However she said the minister would not be commenting on the report at this time.

There are about 1200 men, woman and children asylum seekers on Nauru.

Amnesty and Human Rights Watch visited the island in July and published an initial report into their findings.

However Amnesty have released the full report now because it believes it is time for the Australian government to end offshore processing for good.

"I worked in conflict and crisis for the last 15 years," Ms Neistat said.

"Working in places like Syria, and Yemen, and Afghanistan and Chechnya documenting horrendous human rights violations and human suffering but what I've seen in Nauru is quite shocking.

"It is shocking because it is not an area of conflict. It is the area where people ended up because they were trying to find safety and protection in Australia."

Ms Neistat said many refugees told her it was like dying a thousand times and they would have preferred to stay on a boat rather than be subjected to conditions on the island.

She said refugees were deprived of medical care, faced ongoing mental health issues as well as attacks by locals and being humiliated from service providers and local police.

Ms Neistat also said Australians could no longer pretend they didn't know what was going on there.

"We should not forget that the entire system is set up by the Australian government, it is paid for in billions of dollars by the Australian taxpayers," she said.

"Everybody who works on Nauru and who is responsible for these abuses is hired by the government of Australia and everything that happens is reported to the Australian authorities. "So they cannot claim that they don't know about this and they cannot claim that they are not responsible for it."

## ***CATALOGUE OF ABUSE***

The report criticises the government and says it is choosing to subject women, men and children to an elaborate and cruel system of abuse with a policy that is intentionally designed to harm people. The report is based on months of research, including interviews with more than 100 people in Nauru and Australia.

Amnesty claim asylum seekers and refugees are driven to despair by long processing times and uncertainty regarding their applications. Amnesty interviewed several asylum seekers including an Iranian man whose wife tried to take her life when she was pregnant. According to the report, he found her in the bathroom and was told: "I'm homeless, I can't bring another person into this world." The husband told Amnesty he has now been forced to be the main carer for his daughter due to his wife's ongoing mental distress.

Other asylum seekers say they have been denied medical treatment and police have ignored harassment and abuse claims by locals. One system provider told Amnesty the system was designed to break people down on purpose. "Nauru is built to fail these people: how much can we break them so that they go back, and no boats will ever come again."

Facebook is banned on the island and only two media outlets have been allowed to visit since 2014. Amnesty was last granted access in 2012.

<http://www.goldcoastbulletin.com.au/news/national/nauru-refugees-australia-pays-353-million-per-year-for-island-of-despair/news-story/4c956fe40bbcddb4b390ebf5ce65d6e4>



## 25. Mitch Fifield wants answers about Four Corners' 'troubling' asylum seeker episode

Canberra Times  
October 23 2016 - 9:24PM  
Matthew Knott

Communications Minister Mitch Fifield says he will raise concerns with ABC Managing Director Michelle Guthrie about Four Corners' "odd" decision to reject an interview with Immigration Minister Peter Dutton following a controversial documentary on asylum seekers in Nauru.

Senator Fifield, the minister with portfolio responsibility for the ABC, said he was "troubled" the public broadcaster did not accept Mr Dutton's offer of a live interview during last Monday's program.

Mr Dutton has said he will lodge a formal complaint with the ABC over the program, which he described as "one-sided and slanted" and based "on emotions and lies" rather than facts.

"They've turned themselves into political operatives and it's unacceptable for the national broadcaster," he said last week.

Critics of the program have accused the ABC of poor journalism by painting a dire picture of the conditions on Nauru despite not having visited the island and not seeking comment from the government of Nauru.

The Nauruan government, which rarely allows Australian journalists to visit the island, described the program as an "embarrassment to journalism".

Senator Fifield told Sky News on Sunday that the ABC needs to "continually examine" whether it is meeting its editorial standards.

"I was certainly troubled by the fact that Minister Dutton, who offered himself for a live interview at the conclusion of the program, that that offer wasn't accepted," he said.

"There's no reason why that shouldn't have been accepted.

"I did think it was odd Mr Dutton's offer to give a live interview wasn't taken up."

Senator Fifield continued: "I haven't yet raised the issue with Michelle Guthrie but I certainly will be."

Senator Fifield said various cultures exist within the ABC and that the current affairs division operates differently to the ABC's Canberra bureau, which is regarded as "straight down the line".

ABC head of news Gaven Morris said last week that Mr Dutton rejected Four Corners' offer to film a pre-recorded interview to feature in the documentary.

Four Corners declined Mr Dutton's offer of a live interview following the program because such interviews are not part of the program's format, he said.

Mr Dutton also declined offers to appear on Lateline following the program and on AM the day after it aired.

In an opinion piece for Fairfax Media, Mr Morris said: "We stand by the program and the journalism."

"Four Corners relied on a range of sources for its footage, including hiring a freelance camera operator on Nauru, as is routinely done on many stories," he wrote.

"The key interviews with the children were conducted remotely by our journalists.

"We checked the veracity of all supplied footage used in the story through a number of sources."

<http://www.canberratimes.com.au/federal-politics/political-news/mitch-fifield-wants-answers-about-four-corners-troubling-asylum-seeker-episode-20161022-gs8hqb.html>

## 26. Doctors freed to speak about Australia's detention regime after U-turn

Government backdown means health workers are permitted to air concerns about Nauru and Manus centres, although other staff still face threat of jail terms

The Guardian  
Ben Doherty  
Thursday 20 October 2016 10.05 AEDT

Doctors have been released to speak out about conditions and medical treatment in Australia's immigration detention system, after a backdown from the government on one of the most contentious elements of the Australian Border Force Act.

The secretary of the immigration department, Michael Pezzullo, signed an amendment on 30 September specifically carving out "health professionals" from the definition of "immigration and border protection workers".

The amendment means the secrecy and disclosure provisions of the Border Force Act no longer apply to a comprehensive list of health professionals, including doctors, nurses, psychologists, psychiatrists, counsellors, midwives, pharmacists and dentists.

Other professionals working in onshore and offshore immigration detention, including teachers, lawyers, security staff, social workers and other staff, have not been exempted from speaking out. They still face a jail term of up to two years for any "unauthorised disclosure".

The backdown came ahead of the commencement of high court challenge from medical advocacy group Doctors for Refugees contesting section 42 - the secrecy provisions - of the Border Force Act.

Dr Barri Phatarfod, president of Doctors for Refugees, said the decision was a "huge win for doctors and recognition that our code of ethics is paramount".

But she said the change only allowed for doctors to publicly advocate on behalf of their patients, "it doesn't change the appalling lack of care they often seem to receive".

"Currently, Doctors for Refugees is advocating for several children denied special needs care as well as women unable to get a breast lump biopsy and other significant deviations from appropriate medical treatment. We have around 160 active cases of concern."

Doctors have led public criticism of conditions in immigration detention, particularly in the Australian-run offshore processing camps in Nauru and on Papua New Guinea's Manus Island. A stream of disclosures from health professionals has revealed systemic abuses, including rape, sexual abuse of women and children, violent assault, as well as epidemic levels of self-harm and suicide.

Dr Peter Young, formerly the head of mental health for immigration detention healthcare provider IHMS, was one of the earliest whistleblowers on abusive conditions and inadequate care in offshore detention.

He told the Guardian in 2014 that conditions in offshore detention on Nauru and Manus Island were "akin to torture", in an "environment that was inherently toxic".

On Tuesday Young said the amendment was a major win for doctors and other health professionals who could now freely advocate for better health care for their patients, without fear of prosecution.

"It's a big backdown from the government, and they've made it because they didn't want to go to court, they knew they were going to lose, and they didn't want their planning and policies discoverable in an open court. That's what it's about."

He said the government had quietly made the amendment last month, without broadcasting it, because they wanted the Border Force Act to retain its "chilling affect" on public dissension about detention policies.

"Now, for doctors and nurses and other health professionals, it's even more incumbent on them, those people who have witnessed these things, to come out speak about what is occurring in immigration detention.

"There is nothing stopping them now, except for their own consciences. It's their ethical duty to speak out."

Earlier this year, traumatologist and psychologist Paul Stevenson, who has spent 40 years working with the victims of trauma, said conditions in offshore were "the worst atrocity I've seen".

Guardian Australia has approached the Department of Immigration and Border Protection for comment.

<https://www.theguardian.com/australia-news/2016/oct/20/doctors-freed-to-speak-about-australias-detention-regime-after-u-turn>

## 27. 'A huge win for doctors': Turnbull government backs down on gag laws for doctors on Nauru and Manus

Sydney Morning Herald  
October 20 2016  
Bianca Hall

The Turnbull government has quietly backed down on unpopular laws that threatened doctors and nurses with prison if they spoke out about abuses in offshore detention centres.

On Friday, the Immigration Department posted an amendment to the Border Force Act, signed by the department secretary Michael Pezzullo on September 30, which removed restrictions on health professionals speaking out.

Exempting health professionals from the definition of "immigration and border protection workers" removes them from the secrecy provisions of the Border Force Act.

Under the laws, doctors, nurses, counsellors and other health professionals risked two years' jail if they publicly revealed physical or sexual abuse, or medical negligence in Australia's offshore detention centres.

Doctors welcomed the move, predicting it would lead to a flood of disclosures from health professionals who had worked with asylum seekers and refugees on Nauru and Manus Island.

The Fitzroy Legal Centre and Doctors for Refugees had taken the government to the High Court to challenge the legitimacy of the laws, which were passed last June with the support of Labor.

The government was due to file its defence against the High Court case shortly.

Doctors for Refugees president Barri Phatarfod said the timing of the amendment was "interesting".

"It's a blanket exemption for health professionals," she said. "It's a huge win for doctors."

But the threat of jail has not silenced former detention centre workers.

Doctors and other health professionals have repeatedly flouted the ban on them speaking out, as have Save the Children staff.

In August, 103 current and former staff from the Nauru and Manus Island centres signed an open letter calling for an end to offshore detention, and warned that the only way to ensure the safety of asylum seekers and refugees was to bring them to Australia.

Doctors for Refugees says it is concerned that the new exemptions do not cover other workers in offshore detention centres, including guards and teachers who, in Australia, would have clear duties to disclose any abuse of children.

Dr Phatarfod said the change also "only allows us to speak for our patients – it doesn't change the appalling lack of care they often seem to receive".

"Currently, Doctors for Refugees is advocating for several children denied special needs care as well as women unable to get a breast lump biopsy and other significant deviations from appropriate medical treatment. We have around 160 active cases of concern."

Immigration Minister Peter Dutton's office declined to comment, referring questions to the Department of Immigration and Border Protection.

In a statement, a spokeswoman for the department denied the Border Force Act had been designed to "gag" health professionals, and said the changes clarified that health professionals were not subject to its secrecy provisions.

"Despite consistent incorrect claims and reporting of the ABF Act, the Act is not and has never been an instrument to 'gag' lawful disclosures in the public interest," she said.

However, the threat of legal action against health professionals speaking out had been real, as Mr Pezzullo intimated last year, when he responded to criticism about the changes.

"It has never been permissible for contracted service providers to make public operational detail which poses a risk to the safety and security of individuals, or which affects the operation of the Department or the former Australian Customs and Border Protection Service," Mr Pezzullo said.

The spokeswoman said the department "still expects that health practitioners will maintain their strict ethical, professional and contractual obligations of confidentiality and privacy".

The ABC's Four Corners this week featured several former teachers employed by Save the Children at Nauru, who told of their concerns for children in their charge.

Distressing interviews showed children discussing suicidal thoughts and self harm.

Rather than responding to their reports Coalition senators attacked the creators of the program and accused the ABC of acting as a mouthpiece for activists.

Amnesty International this week also released a major report on the detention of asylum seekers and refugees on Nauru, and said it had evidence the Australian government's treatment of detainees amounted to torture.

In August, Guardian Australia published more than 2000 leaked incident reports from the detention camps on Nauru.

In June 2014, then-immigration minister Scott Morrison used an anti-whistleblowing law against 10 Save the Children staff on Nauru.

The staff were referred to the Australian Federal Police under section 70 of the Crimes Act after they were accused of communicating privileged information to non-Commonwealth workers. All accusations were later dropped.

Save the Children's policy and public advocacy director Mat Tinkler welcomed the changes.

"But the current ban remains in place for others, such as child protection workers and teachers, leaving them with an invidious choice to risk prosecution and speak publicly when they've witnessed rights violations and have not seen them addressed," he said.

"Independent oversight and monitoring of the conditions for refugee and asylum seeker children on Nauru should be an absolute minimum requirement."

Greens leader Richard Di Natale, also a doctor, said the changes removed a legislative requirement for doctors to betray their patients by not speaking out on their behalf.

But he questioned the timing.

"It's hard to escape the conclusion that they're pre-empting a negative finding from the High Court on their legislation."

<http://www.smh.com.au/federal-politics/political-news/a-huge-win-for-doctors-turnbull-government-backs-down-on-gag-laws-for-doctors-on-nauru-and-manus-20161019-gs6ecs.html>

## **28. MEDIA RELEASE: Teachers demand: End all Border Force Act Secrecy Provisions**

Friday October 21, 2016  
Teachers for Refugees  
Mark Goudkamp 0422 078 376 or  
Judith Reen 0406 773 157

Teachers for Refugees today welcomed the government's amendments of 30 September to the Border Force Act which exempt "Health Professionals" from its notorious "secrecy provisions".

However, we are incensed that teachers and other professionals like social workers, who speak out about conditions in immigration detention, are still liable to large fines and up to two years imprisonment.

Mark Goudkamp from Teachers for Refugees said, "The government has finally exempted doctors, nurses and psychologists from its draconian legislation. But only because of immense political pressure from doctors and other health workers."

"It is outrageous that teachers and social workers, who often know the realities of refugees' lives on detention, are still muzzled. If the government had nothing to hide, it would not need the Border Force Act, and it would allow journalists to freely report about Nauru."

"Teachers for Refugees will be there in numbers to support the Sydney doctors' march on Saturday 5 November, which will demand the closure of Manus and Nauru, and the bringing of all refugees and asylum seekers there to Australia," he said.

Judith Reen, former secondary teacher on Nauru and Manus Island, who spoke out on Four Corners on Monday night, added:

"A gagging order also violates the duty of care we practice as professionals. It prevents us from ensuring that any physical or psychological harm that comes to the vulnerable populations we work with is dealt with appropriately. Such secrecy, therefore, undermines the core of what we do."

For more info contact Mark Goudkamp 0422 078 376 or Judith Reen 0406 773 157

DOCTORS MARCH FOR REFUGEES: Sat 5 Nov, 1pm, Hyde Park Fountain.

## **29. Australia should urgently improve whistleblower protection, UN expert says**

Secrecy laws, funding cuts and restrictive contracts have effectively gagged civil society advocates, special rapporteur says

The Guardian  
Paul Karp and Ben Doherty  
Tuesday 18 October 2016 16.06 AEDT

The Australian government should urgently review the Border Force Act's secrecy provisions and improve protections for whistleblowers in the immigration detention system, a United Nations special rapporteur has said.

The UN independent expert Michel Forst made the recommendation while launching a report that concludes that Australian governments have effectively gagged civil society advocates with secrecy laws, funding cuts and restrictive contracts that prevent them speaking up about human rights abuses.

Civil society groups including Save the Children have welcomed the preliminary findings, which Forst presented in Canberra on Tuesday after a two-week visit meeting human rights defenders.

Forst said Australia had "hundreds of secrecy laws that unnecessarily restrict access to government information", including the Border Force Act and state anti-protest laws. These formed part of "mounting evidence of a range of cumulative measures" putting pressure on civil society groups and increasing the disparity between Australia's commitments to the rule of law and its practice.

In particular, Forst singled out secrecy in the immigration portfolio, changes denying environmental advocates legal standing, cuts to community legal centres and gag clauses preventing advocacy by non-government organisations receiving grants.

"The immigration department has gone to extraordinary lengths to curb whistleblowers, public servants or contractors, to share information in the public domain about serious human rights abuses in offshore detention centres," he said.

The Border Force Act contains a section criminalising the making of an "unauthorised disclosure" about conditions in detention camps, punishable by two years in prison.

Forst said aspects of the law that related to freedom of expression should be reviewed and the public interest disclosure framework "substantially strengthened ... to ensure effective protection to whistleblowers".

He said he was "astounded" at "frequent public vilification of rights defenders by senior government officials" to discredit and intimidate them. Media and businesspeople had "contributed to stigmatisation", he said.

"Even the president of the Australian Human Rights Commission, Prof Gillian Triggs, faced government intimidation and public questioning of her integrity, impartiality and judgment after the commission's inquiry into the child harm in immigration detention."

High-profile whistleblowers such as Dr Peter Young, the former head of mental health for International Health and Medical Services, and Paul Stevenson, a traumatologist who worked on Nauru and Manus, have faced heavy recriminations for speaking out about abuses in offshore detention.

They, and others, have lost jobs, been publicly vilified and, in some cases, had their communications monitored, and police investigations launched into their activities. Friends and colleagues have been telephoned and harassed by police, seeking information about private conversations.

Wilson Security even took the extraordinary step of hiring a private investigator to "aggressively" pursue the sources of stories in the Guardian and other media outlets.

Forst said contractors such as Save the Children had been subjected to raids and egregious allegations of misconduct, removed from operations and had their personal and professional reputations targeted by politicians and media.

He said many activists spoke of an atmosphere of fear and censorship, and several defenders preferred not to meet with him for fear of retaliation.

Access to justice was restricted by clauses preventing appeal against immigration decisions, and reported attempts by the government to grant officers in detention centres immunity from criminal and civil liability.

The head of policy and public advocacy at Save the Children Australia, Mat Tinkler, told Guardian Australia Forst's conclusions were "absolutely right".

"The regime of secrecy on offshore processing means Australian taxpayers don't have the opportunity to judge [its] merits ... they don't have all the facts on the table," he said.

"It forces staff to face an invidious choice: to face prosecution, or speak out about egregious child rights violations when nothing is being done to remedy them."

Tinkler welcomed the recommendation to review the Border Force Act, noting that although there had been no prosecutions Forst found it had a chilling effect.

He said Save the Children had "a well-documented history of being attacked for being the messenger of bad news". It had resulted in the "absence of a rights-based organisation providing support to vulnerable people in detention", Tinkler said.

Forst noted that the government had introduced a bill to prevent individuals or organisations that have engaged in environmental activities in the past two years from challenging decisions under the Environment Protection and Biodiversity Conservation Act.

The government had used "vitriolic language" to describe those bringing legal challenges, calling them "radical green activists" engaged in "vigilante litigation".

Forst complained of "drastic defunding of peak bodies" including the total defunding of the Environmental Defenders Offices and the National Congress of Australia's First Peoples.

Gagging clauses prevented organisations that received government funding from "doing any form of advocacy, which is contrary to the principle of a free and democratic society", he said.

An Australian Conservation Foundation campaigner, Basha Stasak, welcomed the UN rapporteur's findings that environmental campaigners had been "vilified" for legitimate legal action.

She called on the government to "take on board the recommendations that environmental groups have a legitimate interest in decision making and in the courts" and withdraw amendments to deny them standing and deprive them of tax-deductible status.

On Tuesday, Triggs told the Senate legal and constitutional affairs legislation committee that there had been "a real slipping back in our commitment to the rule of law and fundamental freedoms" in Australia.

Forst said the degradation of protections for civil society could be "reversed and improved" and called on the government to adopt a national action plan on human rights.

He will present a final report with his findings and recommendations to the UN human rights council in 2017. The government will be given an opportunity to comment on the factual aspects of the draft report before its final submission.

Forst's visit will be followed by a visit from a special rapporteur on the human rights of migrants in November and in 2017, who will report on conditions in offshore detention on Manus Island and Nauru.

<https://www.theguardian.com/australia-news/2016/oct/18/australia-should-urgently-improve-whistleblower-protection-un-expert-says>

## **30. 'Fear, censorship and retaliation': United Nations rapporteur slams Australia's human rights record**

Canberra Times  
October 18 2016  
Michael Koziol

Australia lacks adequate protections for human rights defenders and has created "an atmosphere of fear, censorship and retaliation" among activists, according to a United Nations special rapporteur.

Michel Forst, who released an end-of-mission statement on Tuesday after a fortnight in Australia, said he was "astonished" by numerous measures heaping "enormous pressure" on public servants, whistleblowers and ordinary citizens.

Increased secrecy provisions, especially with regard to immigration and national security, were hampering the ability of journalists and human rights defenders to hold public institutions to account, he said.

The new metadata retention regime, which enjoyed bipartisan support, had "serious implications" for journalists and media outlets, Mr Forst said. He also heard evidence that freedom of information requests were being delayed and frustrated.

Mr Forst also condemned the secrecy requirements of the Australian Border Force Act, elements of which he said contravened human rights principles, including freedom of expression, and called for the laws to be reviewed.

The special rapporteur reserved particular opprobrium for ministers' attacks on Australian Human Rights commissioner Gillian Triggs, who last year resisted enormous pressure from the Abbott government to resign over alleged political bias in a report on children's detention.

"I was astounded to observe what has become frequent public vilification of rights defenders by senior government officials, in a seeming attempt to discredit, intimidate and discourage them from their legitimate work," he said. He called for an inquiry into the treatment of Professor Triggs.

Mr Forst condemned "anti-protest legislation" in Tasmania, NSW and before the West Australian Parliament targeted at environmental activists, which he said would contravene Australia's international obligations.

He also accused the Abbott-Turnbull government of targeting advocates involved in environmental, immigration and land rights causes through the "drastic defunding" of groups, such as the National Congress of Australia's First Peoples.

"Other contractors, such as Save the Children, have been subjected to raids and egregious allegations of misconduct, removed from operations and had their personal and professional reputations targeted by politicians and media," Mr Forst concluded.

Mr Forst will present his final report to the Turnbull government and the UN Human Rights Council. Australia is seeking a seat on that council and the scathing report may have implications for the bid, although Mr Forst would not personally comment on that prospect.

A spokesman for Attorney-General George Brandis said the government welcomed the opportunity to engage with the special rapporteur but considered Mr Forst had "not presented a balanced view of the situation of human rights defenders in Australia".

The Turnbull government "will consider the special rapporteur's recommendations in the same way as it considers recommendations from all United Nations mechanisms", the spokesman said.

Australia has come under a barrage of criticism from international human rights observers, mainly over the offshore processing of asylum seekers on Manus Island and Nauru. On Monday, Amnesty International went so far as to accuse the Australian government of deliberate torture.

<http://www.canberratimes.com.au/federal-politics/political-news/fear-censorship-and-retaliation-united-nations-rapporteur-slams-australias-human-rights-record-20161018-gs4tt3.html>