

# Project SafeCom News and Updates

Monday, 13 July 2015

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# 1. US torture doctors could face charges after report alleges post-9/11 'collusion'

Following repeated denials that its members were complicit in Bush administration-era torture, leading group of psychologists faces a reckoning

The Guardian  
Spencer Ackerman  
Saturday 11 July 2015 05.48 AEST

The largest association of psychologists in the United States is on the brink of a crisis, the Guardian has learned, after an independent review revealed that medical professionals lied and covered up their extensive involvement in post-9/11 torture. The revelation, puncturing years of denials, has already led to at least one leadership firing and creates the potential for loss of licenses and even prosecutions.

Full story at <http://www.theguardian.com/law/2015/jul/10/us-torture-doctors-psychologists-apa-prosecution>

## 2. Elizabeth Farrelly: Native title yes, but still no land rights

The Age  
July 8, 2015 - 9:00PM  
Elizabeth Farrelly

So it's NAIDOC Week. "We all stand on sacred ground," protests the starry-eyed tagline. "Learn, respect, celebrate."

Going by the flood of earnest Indigenous heritage displays, trucked-in smoking ceremonies and family-friendly clips of smiling Koori kids you'd think we meant it. Eighty-five per cent of us, apparently, support removing anti-Aboriginal racism from the constitution. God knows it's little enough, late enough – but is it also hypocritical?

The most memorable part of that June 22 Q&A program wasn't Zaky Mallah. It was the nine-minute segment on native title and mining rights. Yet the Mallah story was beaten up nationwide like a thousand-egg free-range souffle, while the land-rights conversation once again sank without trace.

The questioner was young Martu man, Curtis Taylor. "I travelled here with my family from the Western Desert. There's been huge momentum around the Recognise campaign and changing the constitution [but] when are we going to talk about changing the Native Title Act? Because ... native title is not land rights.

"We have native title ... and we've been forced to negotiate with mining companies like Cameco over the Kintyre uranium project, and Reward Minerals over Lake Disappointment (Kumpupirntily): both mining projects we don't want on our country but we have no rights to say no to mining under native title. When will Australia start talking about changing the Native Title Act and getting real land rights for Indigenous people?"

The answer of Steven Ciobo, parliamentary secretary to the ministers for foreign affairs and of trade and investment, was: "I'm not actually sure whether there's a fundamental right of veto or not. What I do know is, you've gotta get an ILUA, an agreement, from people. That's separate to saying no ... "

Suddenly, from the depth of Ciobo's floundering, came an icky flash of cross-party bonding as Liberal and Labor recognised a common foe. Ciobo forward-passed to former agriculture minister Joel Fitzgibbon, who quickly confessed: "No, I'm not sure either. I'm scrambling."

ILUA stands for Indigenous Land Use Agreement. In theory, it lets native titleholders benefit from mining on their land. In practice it locks them into a dollar-based white-fella definition of "benefit" and an all-or-nothing approach to land sharing.

At issue are the age-old sophistries of consent. The Man needs your agreement, obviously. Otherwise it's assault. But there's a catch. You can't withhold that agreement. If you try, he'll knife you first, assault you anyway, steal all rights to compensation – then bill you for services rendered.

So when is consent not consent?

Fitzgibbon rightly noted that the absence of a right to consent is not exclusive to native titleholders. "No-one in NSW," he said, "has the capacity to reject the extraction of mineral wealth below the surface."

True. The Crown owns all underground mineral wealth, and hands out licences as it chooses. This, with the looming CSG threat, is what gives the Lock the Gate movement its traction.

So all landowners suffer forced compliance. This is in itself invidious. The NSW farmer cannot ban exploration, mining or access from her own land, despite the still unquantified threat to critical water supplies.

But there are important differences between the forced compliance of the freehold farmer and that of native title.

Compensation, for one. If the regular farmer opposes mining and the government forces it through, compulsory acquisition provisions come into play. The farmer must receive market value.

Admittedly, as inner-west householders displaced by Westconnex are now finding, this is often inadequate and unfair. But it's still several rungs up from holders of native title. They have a choice: accept the mine, making perhaps significant money from the despoliation so entailed; or resist – forfeiting all compensation, knowing that the Native Title Tribunal, and the courts, will likely approve the mine anyway – and they could easily be up for costs, as well.

So resistance takes courage. Yet, knowing all this, the Wangan and Jagalingou people of central Queensland – aka the Galilee Basin – formally refused an ILUA with Indian coal giant Adani, and its attendant "shut-up money".

Why? Because the land is sacred. Because achieving native title is so onerous, the proof of continuous occupation so difficult, that it's generally true, as Elder Adrian Burragubba says, that "all we've got left now, our inheritance, is the land".

And because, vast and deep as the spiritual significance of this land is, so too are the mines that threaten it. The Carmichael mine, Burragubba says, will have "devastating impacts on our ... ancestral lands and waters, our totemic plants and animals ... It will pollute and drain billions of litres of groundwater and ... leave a huge black hole of monumental proportions in our homelands ... Our land will be 'disappeared'."

The \$16.5 billion Carmichael mega-mine was approved anyway – by the Queensland government, the tribunal and federal minister Greg Hunt – and within days of the owners' refusal, Adani launched aggressive legal action.

The court has never once found in favour of holders of native title. But the people will not bow. Last month they travelled to the United States, meeting half a dozen major banks including Goldman Sachs and Standard Chartered, which was to lend \$US680 million on the project. Now, several banks have sworn off and some say Carmichael (including port infrastructure near the Great Barrier Reef) is unviable.

But expedience should not be the decider. Tony Abbott vowed this week to "end the great silence about Indigenous people in our founding document". But the constitution is not silent. It is actively discriminatory, explicitly enabling authorities to enact race-specific laws. This must end.

And when it does, the contest for consent may become more equal.

The 1992 Mining Act provides the cultivation test to safeguard white-fella farming. If farmers can prove the land is "agricultural", surface disturbance, even for mining, must have written landowners' consent. Like, consent.

But what is agriculture? In *The Biggest Estate on Earth*, Bill Gammage shows that, for millennia, much of Australia was a garden – a vast and intricate system of land, species and water management, including mosaic-pattern fire farming.

So end the silence, by all means. Fix the constitution. But recognise that "sacred" does not countenance destruction, that farming has different forms and that consent is consent. Self-determination entails it. No means no.

<http://www.theage.com.au/comment/native-title-yes-but-no-land-rights-20150708-gi7i07.html>

### **3. Noel Pearson says summit 'stage-managed', left 'bitter taste' in mouth**

ABC News Online

First posted Mon 6 Jul 2015, 7:16pm

Updated Tue 7 Jul 2015, 8:21am

Noel Pearson has blasted the Prime Minister and Opposition Leader after a summit on Indigenous recognition in Sydney, saying while the event was "a good start", it was "stage-managed" and left a "bitter taste" in his mouth.

Tony Abbott and Bill Shorten hosted about 40 of the nation's most influential Indigenous representatives at Kirribilli House on Monday to discuss a possible referendum to recognise Aboriginal and Torres Strait Islander people in the constitution.

As the founder of the Cape York Institute for Policy and Leadership and a prominent Indigenous leader, Mr Pearson attended the event, but he told the ABC's Radio National Drive program he would have "preferred to stay in Cape York ... and sent a cardboard cut-out" to the meeting instead.

He said the way forward had "already been nussed out" between Mr Abbott and Mr Shorten prior to the meeting but they "both did a very good job of pretending to listen".

"I thought it was an important event, highly stage-managed I might say," Mr Pearson said.

"I had a grin across my face for most of the morning but ... having been manoeuvred through the morning towards a pre-determined outcome started to taste a bit bitter in my mouth."

Mr Pearson told the ABC's Lateline program the meeting was a good start, but "largely redundant".

"Everybody gave speeches around the table and the Prime Minister allowed everyone to speak and speak twice in my case and other people's cases who can't stop talking," he said.

"The process had been predetermined. In terms of input to the process going forward, the exercise was largely redundant but it was a good chance to hear everybody make a commentary around where they stood in relation to recognition."

### ***Australia 'brave enough' for recognition referendum: PM***

Speaking after the meeting, Mr Abbott said the talks on the wording of the possible referendum were collegiate.

He said community consultation was the next step.

"What I think we've done today is laid out a process which will enable all Australians to have a deeper, better informed and much more structured conversation about what this constitutional change could look like," Mr Abbott said.

"I am confident that the time is right, I think that there is an abundance of goodwill, I think that we are good enough, big enough and brave enough to do this, but it is important that we get it right and that's what today's process is all about."

Mr Shorten said the summit had maintained the momentum towards a vital change.

"I think at the heart of what was spoken about today, is a recognition that if this nation is to move forward, we need a constitution which recognises all Australians and doesn't exclude our first Australians," he said.

There is currently no mention of Aboriginal and Torres Strait Islander people in the constitution, and no recognition they were the first Australians.

Monday's meeting came in the wake of a Fairfax Ipsos poll which said 85 per cent of people supported the constitutional recognition of Aboriginal and Torres Strait Islander people as Australia's first inhabitants.

### ***'Fair amount' of progress made: Dodson***

West Australian Indigenous leader Patrick Dodson said the summit was respectful and constructive.

"It was a great occasion, a great event, a historic event and terribly meaningful, I think, in the context of what we're trying to do around a very complicated matter," he said.

"We didn't come to concluded views on models or propositions but I do think we made a fair amount of progress on the steps that are needed to go forward.

"The details, of course, are going to have to be nussed out but at least the broad framework and parameters were agreed."

Kirstie Parker, the co-chair of the National Congress of Australia's First Peoples, said the summit brought together a diverse range of voices, all aiming to right a wrong in Australia's history.

But she said it is just the first step.

"We believe this process must bring about substantive reform. We don't believe that symbolic change is enough," Ms Parker said.

### ***Pearson wants elders given voice in Federal Parliament***

As part of constitutional recognition, Mr Pearson is pushing for an all-Indigenous body, elected by Indigenous people, to make representations in Federal Parliament.

"I've been pushing the idea of a constitutional body to enable us as Indigenous people to talk about our heritage, our communities, our native title and our languages and culture in a way that Parliament can hear us," he said.

"Indigenous people must choose [the representatives]. I'd like to see eminent elders speaking to our Parliament about issues of concern to them."

He said constitutional recognition would empower the next generation of Indigenous Australians.

"I have this great hope that my children are going to be Australians, they're going to participate in the political life of this country unrestrainedly," he said.

"At the moment, for example, we're characterised as a race and it affects our whole psychology, not just the blackfellas, the whitefellas too, because the whitefellas think we're a separate race and treat us as a race and we ourselves have internalised that.

"I think the moment we move to recognition of Indigenous first nations we'll enter a phase where race will just be a concept from the 19th and 20th century that we put behind us, and we as blackfellas won't have this negative idea of race about ourselves and hopefully the wider community will stop having low expectations of us."

<http://www.abc.net.au/news/2015-07-06/noel-pearson-says-indigenous-referendum-summit-stage-managed/6599598>

## **4. Clive Hamilton: Labor's dilemma: progress on climate change is the hostage of xenophobia**

Labor wants to neutralise refugee policy as an issue before the next election. Is accepting tow-backs the only hope for a return to sanity on climate change?

The Guardian  
Clive Hamilton  
Tuesday 7 July 2015 16.13 AEST

Must child refugees remain incarcerated and brutalised if Australia is to return to a sensible climate policy?

This is the horrible question now confronting all progressive Australians. By progressive, I mean those who understand the dangers of climate change and the imperative for Australia to play a fair role in reducing global emissions and who, at the same time, feel appalled that this nation can lock up asylum seekers in offshore detention centres to live, without hope, in sub-human conditions.

This is the hidden question roiling beneath preparations for the ALP national conference later this month. Despite strong opposition from Labor for Refugees, the conference is likely to endorse tow-backs, offshore detention and the whole infrastructure of systematic punishment.

Recognising the party's vulnerability on refugee policy, the Labor leadership is desperate to neutralise it as an issue in the election, which may be called this year.

If it is impossible to detect daylight between Labor and the Coalition on refugee policy, on climate policy the gulf is wide.

The Coalition – led by a man who denies climate science and has shown himself hostile to renewable energy, while lauding the benefits of burning coal – will do all it can to preserve the status quo and wind back policies introduced by the previous Labor government.

Meanwhile, the ALP has committed itself to reintroducing a carbon price and a number of other complementary policies (even if those policies still fall well short of Australia's fair contribution to limiting warming to two degrees celsius).

So the calculus is this: if Labor is to win the next election and put Australia back on the path towards a sensible climate policy, then it must match the Coalition in promising to maintain the ruthless treatment of asylum seekers.

For the conservatives, the hope is that Labor's historical commitment to human rights will prevail, so that the Coalition can win the election and maintain both a pitiless refugee policy and a retrograde climate policy.

Of course, Coalition leaders do not accept that their refugee policy is pitiless, let alone deliberately punitive, because they believe they are good people. They have made up the "preventing drownings" argument to bolster this opinion of themselves.

The ferocity of the attacks on Human Rights Commission president Gillian Triggs can be understood only if we recognise that, in detailing the brutal facts, Triggs is exposing their self-deception and opening them to the possibility that they are not good people.

The exquisite dilemma this situation poses for progressives has its genesis in the marked shift of public sentiment towards those seeking asylum on Australian shores. Although there has always been a strong undertow of xenophobia in Australia, the shift began some 15 years ago when then prime minister John Howard exploited it to brilliant effect with the Tampa affair, justifying the introduction of the Pacific Solution.

In August 2001, Howard introduced the border protection bill, which Labor voted down. But by then an ugly anti-immigrant sentiment, already primed by the rise of Pauline Hanson, was on the loose. It was further inflamed two months later when the

government manufactured a story about boat people throwing their children overboard. It went on to win the election it had been predicted to lose.

Climate change policy in Australia has since become a hostage to xenophobia. It is no longer likely that the two goals of climate protection and a compassionate refugee policy can be met by electing a government both humane and serious about global warming.

It is possible that the premise of my argument is erroneous and that the ALP could win the next election with a more humane refugee policy. Labor for Refugees has commissioned surveys in marginal seats that are said to show this is the case.

Analysis of the influence of refugee policy on voting intentions suggests its effect would be small and that the number of voters abandoning Labor on these grounds would be matched by the number casting a ballot for them (probably instead of the Greens).

But the surveys were conducted at a time when voters' anxieties had been calmed. If the Abbott government were to make an issue of boat arrivals during an election campaign, as they most certainly would if Labor were to adopt a less cruel policy, then the survey figures are likely to be as reliable as the opinion polls before the recent election in Britain.

In the lead-up to the next election we can expect the government to manufacture stunts, like the children overboard affair. Perhaps it will allow a few boats laden with unruly refugees to almost make it to shore, before towing them back as television cameras roll. The political damage to Labor would be immense if it could be portrayed as being soft on boat people.

In the longer term, the only solution is to reverse the tide of xenophobia. SBS TV's *Go Back To Where You Came From* strikes me as a powerful approach because it directly counters the government's highly effective campaign to portray boat people as non-humans, more akin to dangerous animals.

In the short term, there is only one glimmer of light in this awful moral imbroglio. The treatment experienced by asylum seekers depends not only on laws and policies, but on how those laws and policies are applied.

Whereas the Coalition seems to take pride in punishing asylum seekers for attempting to seek refuge in Australia, we could expect a Labor administration to adopt a more humane approach, to implement with some compassion an inhumane policy.

To paraphrase Richard Neville, those incarcerated on Nauru and Manus may discover that there may be only an inch between Labor and the Coalition, but it is an inch in which they can breathe.

>>>> *Clive Hamilton was a candidate for the Greens in 2009.*

<http://www.theguardian.com/commentisfree/2015/jul/07/labors-dilemma-progress-on-climate-change-is-the-hostage-of-xenophobia>

## **5. Dawn Fraser and Pauline Hanson prove old white women can be as silly as old white men**

Australian icons Dawn Fraser and Pauline Hanson scored a big hit for equality on Tuesday, smashing the glass ceiling of stupid commentary

The Guardian

Amy Gray

Wednesday 8 July 2015 15.39 AEST

Some days are so rich in idiocy, it's a surprise we're not subsidising billionaires to mine quotes instead of ore.

National treasure Dawn Fraser used the great "I'm not racist, but..." rhetoric when she declared tennis players Nick Kyrgios and Bernard Tomic should "go back to where ... their parents came from", which seems to be a new low in defining what it means to be Australian.

Then, that klaxon in search of catastrophe, Pauline Hanson, told Derryn Hinch that discrimination should exist in employment, in defence of Lorna Jane specifying the measurements of a fit model who would double as a receptionist. In lieu of an argument she said "I want someone with boobs". And railed against jobs for Indigenous Australians which she claims discriminate against the real victims, white people.

And hereby the two women entered a domain previously dominated by old white men. Fraser and Hanson are shining beacons of gender equality shattering the glass ceiling of stupid commentary.

Just in recent times, we've had Eric Abetz's attack on marriage equality, which was so stratospherically rock-headed scientists are currently trying to land Philae on it. Marina Abramović's introduction to Australia was watching a 75 hour-long

movie of Abbott dressed as a fireman and eating a raw onion, and Glenn Lazarus's new negotiation tactic is threatening the PM with digital anal rape.

So while many have raised concerns about women making such embarrassing comments publicly, if you think about it, the mere appearance of two women in public is actually a win for feminism. In a land where idiotic comments have never stopped men from climbing the ladder, it's a revelation that women can make statements just as moronic.

This could be a cause for concern because, as we all know, women speak with one voice, quite possibly because most media only allows one female voice per program. Any more and it counts as a "women's special" on Q&A.

Feminism rests on the radical concept that women can be just as complex and individual as men. We take men as they are – some are nice, or working hard to do good, some are breathtakingly silly, some are pure evil and some just get so confused they become Joe Hockey.

Yet when it comes to women, we tell them they must appear "likeable" and view them as a hive of drone-brained automatons who all think and respond as one. Abbott will chase the "women" vote with "women-friendly" policies. We're told equality can be achieved by putting a few more women on boards in the mistaken belief that all women are ready to usher in a new age of equality for the sisterhood.

Despite its simple premise, the pursuit of equality is rarely the same. If you're a white male, there's an expectation that the world will treat you on your merits because being a white male in the western world is the default setting. And within that default setting we allow for all manner of variance because it's accepted as normal that white men can be different and have different points of view.

If you're not a white male, however, you can usually be only one other character. Different races, genders, ages and abilities are all viewed as singular groups with single voices. We don't allow them variance because we don't listen to them enough to notice differences.

And so, yes, women can be as inspiring and as good as men, and women can be as hateful and idiotic as men. You'd know that if you listened to them and saw their presence as more than tokenism.

The goal of feminism isn't for all women to behave a certain way, it's for women to have a say. Sometimes what gets said will blow the room away and sometimes it's just gonna blow.

That's equality. The ability to be as stupid as men and still climb the ladder.

<http://www.theguardian.com/commentisfree/2015/jul/08/dawn-fraser-and-pauline-hanson-prove-old-white-women-can-be-as-silly-as-old-white-men>

## **6. Mariam Veiszadeh & Lydia Shelly: Scapegoating minorities may reap a bitter harvest**

The Age  
July 8, 2015 - 9:30PM  
Mariam Veiszadeh & Lydia Shelly

Earlier this week we attended a federal government "consultation" over planned legislative changes that would remove Australian citizenship for dual citizens found guilty of terrorist activities. We attended despite our "engagement fatigue" since many local Muslims are urging no further engagement with the Abbott government on the issue of national security.

We were disappointed but not surprised that key Muslim groups seemed to have been excluded from these face-to-face "consultations". In fact, we were only invited on the recommendation of a colleague. When we asked the organisers about this we were told that face-to-face consultations were "not a primary method of consultation" and that the citizenship paper had been emailed to various organisations. That has been the extent of the rather limited "consultation" process regarding citizenship.

As lawyers, mothers and Australian Muslims we are committed to the rule of law, civil liberties and social cohesion. We do not believe the proposed amendments to the Citizenship Act are necessary, proportionate or productive. Existing legislation gives the government many ways to tackle terrorism.

We are concerned the changes will result in "ex citizens" becoming stateless, permit the indefinite detention within Australia of affected persons, breach international legal obligations, contribute to global insecurity and allow a minister to effectively play judge and jury. If our political leaders continue to politicise national security, Australia risks reinforcing terrorist propaganda – the same propaganda that Muslims are being asked, unfairly, to develop strategies to counter.

There is no evidence that the proposed legislation will act as a sufficient deterrent. Rather it risks making martyrs of those affected and who may then parade it as a 'badge of honour', the perfect PR for Islamic State and their recruitment drive.

While Prime Minister Tony Abbott's gaffes often land him in hot water, his disdain and, at best, irresponsible comments about Australian Muslims are deeply damaging and contribute directly to disengagement and alienation which is keenly felt in many parts of the Muslim community.

Consider Abbott's "Team Australia" rhetoric, his indirect labelling of local Muslims as "migrants" even though close to 40 per cent of Australian Muslims were born here, and perhaps most offensive of all, his remarks that Western leaders describe Islam as a "religion of peace" and that he'd "wish more Muslim leaders would say that more often, and mean it". Perhaps the government should admit it is peddling what many Muslims see as xenophobic views which demonise Australian Muslims because it pays political dividends and "mean it".

It goes without saying that we are as concerned about Australia's national security as is the nation as a whole, and wish for nothing more but to raise our children in a safe and harmonious Australia.

It's exhausting however, waking up and day after day, to a relentless, disproportionate focus on terrorism and its implied or explicit links to Islam and Australia's almost 500,000 Muslims. Consider the impact this has for Muslim children, who are growing up in an environment in which Islamophobia, which feeds radicalisation, has become mainstream. Yet at the same time three-quarters of Australians believe domestic violence is as much or more of a threat than terrorism, according to recent polling. Despite this the Prime Minister is too busy telling Australians that "IS are coming to get us" to notice. Even Malcolm Turnbull seems to be of the view that we risk overstating the terror threat.

During the consultation, we were told that "citizenship is a very different thing to what it was in 1948". Not true. Citizenship remains a right – with responsibility – not a privilege, but a right. To have our political leadership assert a contrary position is undemocratic and sets a foundation for an assumption of "unequal citizenship". These nuances are repackaged by designated terrorist organisations for use in their propaganda.

We will not be the rubber stamps, or grateful for a seat at the table or a photo opportunity. We cannot afford polite pussyfooting, with our country's character, international reputation, security and, frankly, lives, on the line. As we left the consultation, we were informed that a report will be prepared and furnished to Minister for Immigration and Border Protection Peter Dutton and the Prime Minister's Office and that it was unlikely that the submissions or the report would be made public.

Scapegoating minority groups and engaging in chest-beating about national security may serve as an effective political distraction and it has worked wonders for previous governments who have faced an uphill battle in the polls.

The Tampa/children overboard scandal helped hand John Howard his 2001 election victory. Tony Abbott is, in our view, actively manufacturing his Tampa moment.

>>>> *Mariam Veiszadeh and Lydia Shelly are lawyers and community advocates.*

<http://www.theage.com.au/comment/scapegoating-minorities-may-reap-a-bitter-harvest-20150708-gi7l2u.html>

## **7. The Saturday Paper: Timor Sea policy a challenge for Labor**

The Saturday Paper  
Steve Bracks  
Jul 11, 2015

Australia is a sparsely populated island of 24 million people, separated from our billions of neighbours in Asia by the Timor Sea. We have the good fortune to inhabit one of the most economically successful, peaceful and environmentally diverse nations on the planet. Australian governments of all persuasions have recognised that it is clearly in our national interest for international relations to be conducted according to the rule of law and without resort to conflict.

Gregory Poling, a fellow with the Pacific Partners Initiative at the Centre for Strategic and International Studies in Washington, recently observed that as "a maritime nation and Indo-Pacific middle power, the protection of the global maritime commons, international rules and norms at sea, and freedom of navigation and overflight, are vital Australian interests".

Yet in 2002, Australia unilaterally withdrew from the maritime jurisdiction of the International Court of Justice and the International Tribunal for the Law of the Sea. This decision was made by then foreign minister Alexander Downer just after Australia negotiated an agreement with the United Nations that had the effect of impeding the new nation of Timor-Leste from claiming rights to billions of dollars worth of oil and gas reserves in the Timor Sea, on the Timor side of the median line with Australia.

Leaving aside the merits of Australia's maritime boundary claim in the Timor Sea – and our subsequent belligerent conduct towards one of our poorest and most vulnerable neighbours – by stepping away from the international umpire we have undermined our ability to contribute positively to efforts to embed the rule of international law and reduce the risk of conflict in our region.

Full story at <https://www.thesaturdaypaper.com.au/topic/politics/2015/07/11/timor-sea-policy-challenge-labor/14365368002112>

## 8. Waleed Aly: Politics is about persuasion but both parties neglect the public's views

Both sides of politics offer people outrage or seek to assuage them. Neither side tries to engage voters with persuasive arguments.

The Age  
July 10, 2015 - 12:31AM  
Waleed Aly

About the same time Barnaby Joyce was not appearing on Q&A, Australians were largely not digesting an opinion poll from that morning that made diabolical reading. Most simply, it was diabolical for our major political leaders, both of whom are plumbing historic depths of unpopularity and disapproval.

More broadly, though, this whole snapshot is diabolical for the very idea of Australian political culture. Our disillusionment with politics is now complete. It is real. It is not mere nostalgia for a better time that never existed. It is a kind of socialised disgust at the cynical offering with which voters are now stuck. Joyce's forced boycott (and now, Malcolm Turnbull's) partly explains this nadir.

Not because democracy cannot function without Q&A, or even that Q&A cannot function without the Coalition. But because a cabinet boycott of this kind symbolises the state of civil debate in this country; a debate now so thoroughly decomposed it barely resembles its origins as the central pillar of democracy. This saga stands as an emblem for the way in which we do public discourse.

Both major parties contribute to this mess, though in opposite ways. The Coalition pursues niche convictions that have little to do with public sentiment; Labor pursues public sentiment but with little conviction. What neither do is engage us on contentious matters of importance, and mount a coherent, sustained argument. They will try to outrage us – preferably directing that rage towards their foes. They will try to assuage us. But they almost never try to persuade us.

To be sure, each party has its populist terrain, on which it naturally embodies public instincts. The Coalition has national security and boats. Labor has anything that can be dubbed "fairness" and (if the Coalition dares raise it) industrial relations. But so ingrained are our uninspiring habits that even on these issues there is nothing approximating leadership.

Labor's best moments arrive when the Coalition steps on a landmine and offends the electorate. From here, Labor simply amplifies the damage. It does not start these conversations and take the country with it. It waits for the country to declare its outrage, then rides it. So it was with the Abbott government's disastrous first budget, as it was with WorkChoices before it. Where other issues fall its way – like say climate change or even same-sex marriage – it simply mangles the argument.

It is Labor – through Kevin Rudd's ETS cowardice and Julia Gillard's "citizens' assembly" policy void, which led her ultimately to break her promise by negotiating a carbon tax she had specifically ruled out – that has made a serious climate change policy politically impossible. And when it does mount a visionary idea – like, say, Gonski – it fails to explain why these ideas are more important than the debt they will impose, leaving them susceptible to a fiscal dismantling.

The Coalition, meanwhile, finds itself unable to resist overdoing its advantages. Tony Abbott's recently belligerent focus on national security has lacked any of John Howard's subtlety, and delivered no discernible benefit in the polls. He's pursued this so wildly that his most high-profile cabinet colleague – and greatest internal threat as leader – now feels comfortable building his capital by being more measured on terrorism. Abbott may be the first leader to have found a way to exhaust the political advantages of national security, which is no piffling achievement. The same is probably not quite true of asylum seeker policy, but the problem with boats is that once they stop coming, Australians stop fearing them, meaning their political bang has a natural limit. Unless, of course, the issue can be somehow revived.

That thought petrifies Labor, which is precisely why Bill Shorten will be dreading its upcoming national conference, where Labor's factions will tear at each other's throats over whether or not to support Abbott's policy of turning back boats. A significant portion of the party would find this scandalous, but Shorten knows that if he fails to adopt it, the Coalition will hammer its political advantage mercilessly. And that's why he's manoeuvring to capitulate. It's a study of how Labor behaves on issues where public sentiment runs against it.

If Labor struggles to press home a popular argument, it has long since abandoned hope of mounting an unpopular one – which is why it spent most of its last term pretending it could deliver a surplus. And right now, any kind of restraint on asylum seeker policy is about as unpopular as it gets. Shorten would need to counter the torrent of anti-boat people hysteria that has gripped the country since Paul Keating. That's unlikely, so we can expect Labor to acquiesce.

And it is here that Labor's differences with the Coalition are sharpest. Faced with its own idiosyncrasies, the Coalition chooses neither to acquiesce, nor to persuade, but rather to bludgeon. We're seeing that from some of the Coalition's hardest warriors on same-sex marriage and renewable energy, for example. And we're certainly seeing that with Q&A. Abbott is playing to a crowd – both within and without his party room – whose incandescent hatred of the ABC long predates Zaky Mallah's infamy.

The trouble is that crowd is very small. The ABC remains vastly more popular than any government, and the broader electorate simply has no interest in seeing a Prime Minister treat it like some enemy of the state that is on the wrong "side". Abbott's running against public sympathies here, on an issue with almost no mainstream resonance. He's doing it with all the vigour Labor doesn't, and none of the touch someone like Howard did.

These are our times. Labor refuses to prosecute a difficult argument. The Coalition cannot prosecute one without finding an enemy to prosecute along with it. But no one is inviting us into a civil exchange. Perhaps with our instant online outrage and shallowing media cycle we're not the best guests. Sure, I'll accept that. But politicians aren't merely self-interested combatants. They're custodians of our political culture. And on that score there's a problem because it's never been easier to win politically by destroying politics.

>>>> *Waleed Aly is a Fairfax Media columnist and winner of the 2014 Walkley award for best columnist. He also lectures in politics at Monash University.*

<http://www.theage.com.au/comment/civil-debate-dead-as-main-parties-neglect-publics-views-20150709-qi8bh9.html>

## 9. Michael Gerrard: To stop the boats we must stop the warming

The Age  
Michael Gerrard  
July 13, 2015 - 12:15AM

Towards the end of this century, if current trends are not reversed, large parts of Bangladesh, the Philippines, Indonesia, Pakistan, Egypt and Vietnam, among other countries, will be under water. Some small island nations, such as Kiribati and the Marshall Islands, will be close to disappearing entirely. Swaths of Africa from Sierra Leone to Ethiopia will be turning into desert. Glaciers in the Himalayas and the Andes, on which entire regions depend for drinking water, will be melting away. Many habitable parts of the world will no longer be able to support agriculture or produce clean water.

The people who live there will not sit passively by while they and their children starve to death. Tens or hundreds of millions of people will try very hard to go somewhere they can survive. They will be hungry, thirsty, hot – and desperate. If the search for safety involves piling into perilous boats and enduring miserable and dangerous journeys, they will do it. They will cross borders, regardless of whether they are welcome. And, in their desperation, they could become violent: Forced migration can exacerbate ethnic and political tensions.

Our children and grandchildren could be confronting a humanitarian crisis unlike anything the world has ever faced. In the absence of the political will to prevent it, the least we can do is to start planning for it.

Rather than leaving vast numbers of victims of a warmer world stranded, without any place allowing them in, industrialised countries ought to pledge to take on a share of the displaced population equal to how much each nation has historically contributed to emissions of the greenhouse gases that are causing this crisis. According to the World Resources Institute, between 1850 and 2011, the United States was the source of 27 per cent of the world's carbon dioxide emissions; the European Union, 25 per cent; China, 11 per cent; Russia, 8 per cent; and Japan, 4 per cent.

To make calculating easy, let's assume 100 million people will need new homes outside their own countries by 2050. Under a formula based on historic greenhouse gas emissions, the United States would take in 27 million people; Europe, 25 million; and so on. Even as a rough estimate, this gives a sense of the magnitude of the problem.

None of this would be popular, but it would be fair. Climate change results from the cumulative emissions of greenhouse gases all over the world, because the gases stay in the atmosphere for a century or more. International law recognises that if pollution crosses national borders, the country where it originated is responsible for the damages. That affirms what we all learnt in the schoolyard: if you make a mess, you clean it up. The countries that spewed (or allowed or encouraged their corporations to spew) these chemicals into the air, and especially the countries that grew rich while doing so, should take responsibility for the consequences of their actions. If they want to reduce the number of people in need of new homes, they should reduce their emissions.

Finding suitable land for resettlement will be immensely difficult. A population that needs to move might want to go to a place that is geographically similar to the place from which it came, where it can make the same sort of living as before, such as from fishing, farming or herding. Its members might also wish to go together and recreate their old communities. Yet, most of the habitable places on Earth are already inhabited, and moving a sizable population into an area that is already populated is not easy. The most prominent example of such a movement in modern history is Israel – a project that has not gone smoothly. Technologies such as desalination can make more areas habitable, but they typically take a great deal of money and energy, the very resource we have failed to conserve in the first place.

This problem will also require a new legal solution: Under current law, those displaced by climate change have no recognised legal status. The 1951 Refugee Convention applies only to people who are fleeing because of a well-founded fear of persecution. Non-binding guidelines have appeared on the treatment of people who cross borders as a result of climate change (the Nansen Principles) and who are displaced internally (the Peninsula Principles), but these have no force of law. A

few countries have special arrangements to admit people from certain other countries. They aren't specifically for climate-change refugees, but could be used in that situation. For example, the US has "compacts of free association" with the Marshall Islands, Micronesia and Palau. Australia and New Zealand have very small guest-worker programs. Temporary protected status or humanitarian visas might be available to some people for a limited time.

Assuming that most nations aren't actually interested in taking in orders of magnitude more migrants than they do now, the vast majority of those who will be displaced by climate change will simply have no place outside their own countries where they can go. The largest number of displaced people is likely to be from Bangladesh, but it's hard to imagine that those people will be welcomed in India, which has built a barbed-wire fence along parts of the border.

Just south-west of India is the low-lying island nation of Maldives. Before its president, Mohamed Nasheed, was deposed by a military coup in 2012, he rose to global prominence as a voice of endangered island nations by staging an underwater cabinet meeting to highlight his country's likely fate. Last year, he told me about his message to developed nations. "You can drastically reduce your greenhouse gas emissions so that the seas do not rise so much," he said. "Or, when we show up on your shores in our boats, you can let us in. Or, when we show up on your shores in our boats, you can shoot us. You pick."

Tragically, if today is any foretaste, the most likely outcome is that we will let many of them drown. Witness the spectacle of hundreds of thousands of people fleeing civil war in Syria and repression in Eritrea; making their way to a country without much of a government, Libya; and there being recruited by unscrupulous traffickers, who put them on boats pointed to Italy. Thousands perish on these unsafe, overpacked vessels, and those who survive the passage are not exactly welcomed with open arms. Europe is in a furore over who will take them in and anti-immigrant fervour tends to rise with the number of people trying to enter, making a resolution especially difficult.

Likewise, many people fleeing poverty in Bangladesh and oppression in Burma are launching boats to Indonesia, Malaysia and Thailand and, at least initially, were being turned away. Australia – a logical destination for people from the small Pacific islands – intercepts incoming boats and sends their occupants to camps it has established in Papua New Guinea, Nauru and, lately, Cambodia.

Maybe the idea of assigning refugees to the nations that caused the climate to change can spur a less-pessimistic future. If we don't want millions of people seeking haven in industrialised countries, then those countries need to become far more aggressive in cutting their greenhouse gas emissions. There is still a little time to reduce the damage. If not, it won't just be environmental; it will be human, too.

>>>> *Michael Gerrard is director of the Sabin Centre for Climate Change Law at Columbia Law School.*

<http://www.theage.com.au/comment/climate-change-will-force-millions-to-look-for-new-homes-20150712-gi9g36>

## **10. Working with asylum seekers in immigration detention: clinical and medical ethics update**

Crikey Blogs - Croakey  
Jennifer Doggett  
Jul 05, 2015 11:56PM

A chilly protest in Melbourne is the latest in a series of actions by the medical profession against attempts by the Government to prevent doctors working in detention centres from talking publicly about their experiences.

This follows a national 'call-out' organised by the Australian Medical Students Association which involved medical students around the country calling all Federal Parliamentarians to lodge their objections to the Australian Border Force Act.

This legislation came into effect on July 1st 2015 and will make doctors criminally liable for disclosing any aspects relating to their work with asylum seekers.

The following piece by Dr Peter Young, Dr Ai-Lene Chan and Professor David Isaacs reviews the adverse psychological and physical health effects of mandatory detention doctors encounter, in order to highlight the need for ongoing discussion and transparency.

The authors are all experienced medical practitioners who have provided health care to people in a range of different detention centres, as follows:

Dr Peter Young is a Psychiatrist and former Director for Mental Health Services for IHMS – responsible for all the detention centres.

Dr Ai-Lene Chan is an Adelaide General Practitioner with Masters of Public Health and Tropical Medicine. She worked at Christmas Island detention centre in 2013 and 2014 and in Nauru in 2014

Professor David Isaacs is a Paediatrician who worked in Nauru

They write:

Doctors who work with asylum seekers within Immigration Detention Centres regularly confront their ethical responsibility to report substandard care, or concerns of mistreatment. Understanding of the health consequences of detention has relied on doctors, nurses, other health professionals maintaining their professional standards including health advocacy and speaking out. The emotional and physical situation of those in detention is grave and healthcare substandard. How can doctors work to professional standards in this setting and under the threat of prosecution? What is the ethical obligation of doctors to advocate for their patients? In alliance with professional groups including the Australian Medical Association, the Royal Australian College of General Practitioners, The Royal Australasian College of Physicians and The Royal Australian and New Zealand College of Psychiatrists the integrity of clinical independence needs to be protected from attempts to undermine it.

What does the Australian Border Force Act mean for doctors?

The independence of the medical profession has long been considered as a public good and a cornerstone of its integrity (2). Healthcare professionals who provide healthcare to asylum seekers in detention are employed through the service contractor International Health and Medical Services (IHMS). The restrictions placed on doctors working in Immigration detention results in healthcare that cannot be consistent with Australian codes of conduct and standards. However, doctors must sign restrictive contracts forbidding discussion of their work with anyone outside the system and any critical comment of IHMS or of the Department of Immigration and Border Protection (DIBP) in mainstream or social media (3,4).

Full story at <http://blogs.crikey.com.au/croakey/2015/07/05/working-with-asylum-seekers-in-immigration-detention-clinical-and-medical-ethics-update/>

## **11. Fact check: Would paying people smugglers to turn back boats be illegal?**

ABC News Online / Fact check Unit  
Posted Tue 7 Jul 2015, 7:25am

Allegations that the Abbott Government paid people smugglers to turn a boatload of asylum seekers back to Indonesia have raised questions about the legality of doing so.

The Greens have moved in the Senate for greater transparency on the issue, with the Greens immigration spokeswoman Sarah Hanson-Young calling for an inquiry.

A motion for an inquiry was successful in June, and the Senate Legal and Constitutional Affairs Committee is now investigating the alleged payments.

The committee is expected to report in September.

Greens leader Richard Di Natale said the allegations were serious, and that if they were true the Government had broken the law.

ABC Fact Check takes a look at possible breaches of the law.

### ***The basis of the claim***

Fact Check asked Senator Di Natale's office for the basis of his claim and a spokeswoman referred to an article on The Conversation by Amy Maguire, an international law expert from the University of Newcastle.

"We understand that paying asylum seeker boat crews to turn back would definitely be in breach of international human trafficking laws.

"There are claims by the Government that it may not be illegal domestically, since ASIS could be covered by immunities. However, there are domestic human trafficking laws and people smuggling laws that, if there were no immunity, could come into play," the spokeswoman said.

"The Senate inquiry into turn backs is where we are going to see some of the specific evidence about this, and where were going to get critical information about domestic implications."

### ***What is people smuggling?***

Unlike human trafficking, people smuggling usually involves a person willingly illegally crossing international borders.

INTERPOL has claimed that "the flow of migrants across borders is controlled increasingly by criminal networks".

That's a view backed up by an article in the Australian Federal Police's publication, *Platypus*, in September 2000, which said people smuggling had moved to a more organised model.

"These activities have moved from being relatively overt and amateurish, relying to a significant extent on family connections, to being increasingly covert, highly lucrative, professional criminal enterprises involving high levels of official corruption," the article said.

The University of Queensland's Migrant Smuggling Working Group keeps track of all people that are recorded as having entered the country through people smuggling ventures, but says the figures don't reflect the true extent of the problem.

"These figures may be indicative of the levels of migrant smuggling into this country, but it must be noted that these figures do not represent the actual number of smuggled migrants. This is because some unauthorised arrivals by boat may have occurred without the involvement of migrant smugglers and instances of migrant smuggling by air are very infrequently detected," the group's website states.

### ***Breaching Australian law?***

There are three key pieces of Australian law that relate to people smuggling. They are:

- The Migration Act 1958
- The Criminal Code 1995
- The Anti-People Smuggling and Other Measures Act 2010

The Migration Act deals with cases of people smuggling where there are attempts to enter Australia.

A brief on the issue prepared by the Kaldor Centre for International Refugee Law at the University of New South Wales, said the provisions on people smuggling in the Migration Act wouldn't apply in this case, because the people allegedly turned around weren't being helped into Australia.

"The government has not breached the Migration Act 1958 because the relevant sections apply only to the smuggling of persons into Australia," the brief, written by Jane McAdam and Sophie Duxson, states.

The Anti-People Smuggling and Other Measures Act removed inconsistencies between anti-people smuggling offences in the Migration Act and Criminal Code, and introduced a new offence in both acts of supporting people smuggling.

Experts said it is the Criminal Code that would apply in this case, as the alleged payment was to turn boats back to Indonesia.

Ben Saul, Professor of International Law at the University of Sydney, told Fact Check that there was a case to be made that if the Abbott Government had paid people smugglers to turn their boats around, then the relevant sections of Australia's Criminal Code had been broken.

"The offence of people smuggling under section 73.1(1) of the Commonwealth Criminal Code, occurs where a person "organises or facilitates" the entry of another person into any foreign country; and the person's entry into the foreign country does not comply with the foreign country's law; and where the person smuggled is not a citizen or permanent resident of the foreign country.

"In this case, it is arguable that Australian officials financing the crew members to take foreigners into Indonesia, contrary to Indonesian immigration law, amounts to "facilitating" their entry to Indonesia contrary to s. 73.1(1)," Professor Saul said.

"If financing does not amount to "facilitating" (and therefore the financiers do not themselves commit the offence of people smuggling), then financing would still amount to complicity ("aiding and abetting") in the offence of people smuggling by the crew members, which itself is an offence under section 11.2 of the Commonwealth Criminal Code, in conjunction with section 73.1."

Don Rothwell, an international law expert from the Australian National University, has also said the alleged payments would breach the criminal code.

"Any payments to a people smuggler to take people from one place to a foreign country is an act of people smuggling so at face value if the reports are true there is a violation of the Commonwealth Criminal Code," he told ABC News Breakfast. And he said any alleged breaches did not have to take place in Australia, or in Australian waters, because the provisions of the criminal code applied to all Australian citizens and residents.

Professor McAdam and Ms Dixon also agree that the alleged act appears to have breached the Criminal Code.

### ***International law and people smuggling***

The key piece of international law relevant in this instance is the Protocol against the Smuggling of Migrants by Land, Sea and Air, Supplementing the United Nations Convention against Transnational Organised Crime.

Australia is a signatory to the protocol.

Article six of the protocol states that signatories to the protocol will enact domestic laws to prevent people smuggling, and that the domestic laws should establish people smuggling as a criminal offence, and also establish laws that would make attempting to people smuggling, or assisting with people smuggling illegal.

The protocol does not create any international courts or tribunals to enforce it, rather it asks signatories to enact domestic laws to do so.

Professor Saul told Fact Check that the allegations about paying people smugglers to turn boats around could constitute an offence under the protocol.

"The protocol defines smuggling of migrants as "the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a state party of which the person is not a national or a permanent resident". Australia is a party to the protocol," he said.

"In this case, preventing asylum seekers reaching Australia by paying the crew to turn back may constitute a "material benefit", thus amounting to the offence of people smuggling.

"Alternatively, financing people smuggling into Indonesia would still separately constitute the offence of participating as an accomplice in the smuggling by the crew."

But he said the lack of an international court means the offences would have to be dealt with domestically.

"The Australian Criminal Code provisions implement these offences. Also, other countries which are parties to the protocol have also implemented the crimes and could have domestic jurisdiction to prosecute Australians in their courts," he said.

Indonesia is a signatory to the protocol, although it has not ratified it.

Mary Crock, from the University of Sydney, told Fact Check that paying people smugglers to turn boats around was "absolutely" in breach of international law.

"Australia is party to a raft of international instruments designed to try and stop people smuggling and trafficking in persons. Paying people smugglers to take people to a country that they have no right to enter is people smuggling," she said.

Andreas Schloenhardt, from the University of Queensland, was less confident that the alleged conduct was clear case of a breach of law.

"I would hesitate to say that paying the migrant smugglers to return the asylum seekers to Indonesia is in breach of any international obligations. Such action could be seen as aiding the smugglers or financing them, but it may not be enough to argue that Australia itself is engaging in migrant smuggling.

"Such actions do, however, contravene the spirit of the UN Protocol against the Smuggling of Migrants by Land, Air, and Sea but most aspects of Australia's anti-people smuggling offence and other measures depart quite fundamentally from that protocol, to which Australia is a signatory," he said.

## ***ASIS and the law***

Some of the discussion around the alleged payments has suggested that if the money did change hands, the act was undertaken by members of Australia's Secret Intelligence Service.

That could mean that even if a crime was committed as defined by the Australian law, that there would be no person to punish.

That's because ASIS officers are protected from criminal and civil liability while undertaking their duties under the Intelligence Services Act 2001.

Professor Saul said that whether an ASIS officer could be prosecuted would depend on "whether disrupting people smuggling into Australia falls within the functions of ASIS".

According to the Act, the functions of ASIS are:

- to obtain, in accordance with the government's requirements, intelligence about the capabilities, intentions or activities of people or organisations outside Australia; and
- to communicate, in accordance with the government's requirements, such intelligence; and
- to conduct counter-intelligence activities; and
- to liaise with intelligence or security services, or other authorities, of other countries; and

- to undertake such other activities as the responsible minister directs relating to the capabilities, intentions or activities of people or organisations outside Australia.

Professor Saul told Fact Check that most of the functions described in the Act are intelligence gathering activities that wouldn't include paying people smugglers, and that "operational activities to directly disrupt the commission of a crime in Australia", like smuggling people into the country, are usually the responsibility of the Australian Federal Police, not ASIS.

"Paying people smugglers would have to be directed by the minister in order for the ASIS officer to enjoy immunity from prosecution. Ditto for any ASIS officers within Australia who authorised or made payments in connection with the payments made to the crew outside Australia," he said.

Still, even if ASIS officers are safe from prosecution under the relevant Australian law, that doesn't mean they couldn't be prosecuted under the law of another country, like Indonesia, if a breach of law has occurred there.

"The immunity provisions in Australian law are not binding on the Indonesian courts. While foreign government officials (including ASIS) would ordinarily have immunity under international law before foreign courts, in this case it is strongly arguable that Australia's acceptance of the smuggling protocol amounts to a waiver of any international law immunity for Australian officials," Professor Saul said.

Professor McAdam and Ms Duxson came to a similar conclusion.

"Indonesia could attempt to prosecute Australian government officials under its own national laws. Any immunities (eg. for ASIS officials) would not bind Indonesian courts," they wrote in their brief.

Still, they concluded such a prosecution would be unlikely.

"Rather than pursuing legal action against Australia, Indonesia is much more likely to continue to put diplomatic pressure on the Australian government to reveal further information about the alleged payment, and may seek an undertaking from the Australian government that it will not make such a payment again," they concluded.

But whether there is someone to punish or not doesn't have any impact on whether a law is broken.

"Australian criminal law has become harsher and harsher on people smuggling over the years. So it's absolutely accurate... it's 100 per cent accurate to say they are breaching Australian law. Whether they can be prosecuted however is another matter," Professor Crock said.

Professor Saul agreed.

"Technically, an immunity is a procedural bar to prosecution, but does not eliminate the existence of an underlying substantive offence," he said.

Even if the people who allegedly paid smugglers weren't ASIS officers, prosecution under Australian law would have to be approved by the attorney general.

"The consent of the Commonwealth attorney general is required before any prosecution could occur under that provision of the criminal code," Professor Rothwell said.

## ***The verdict***

It is not known whether the allegations that Australian officials paid people smugglers to turn a boat back to Indonesia are true or not. But if such an event did occur legal experts say that would have likely breached both Australian and international law.

And while Professor Schloenhardt, from the University of Queensland, was not certain that Australia would be in breach, he said such payments would "contravene the spirit" of international law.

Senator Di Natale's claim that the alleged payment would breach Australian and international law checks out.

## ***Sources***

NOTE: Sources are listed as hyperlinks on the ABC website - see the page link below.

<http://www.abc.net.au/news/2015-07-07/fact-check-paying-people-smugglers-to-turn-back-boats-illegal/6566184>

## 12. "We've Sent Them Away To Die": Tony Windsor Lashes Out At Hard-Line Refugee Policies

The former Independent, who helped Julia Gillard form government in 2010, is weighing a return to politics. Max Chalmers reports.

New Matilda  
9 Jul 2015  
By Max Chalmers

Former Independent MP Tony Windsor has confirmed he is considering a return to federal politics, using a Radio National interview this morning the savage Agriculture Minister Barnaby Joyce and reiterate his previous criticism of Australia's tough refugee policies.

"We've created what I call the Ratsack approach. We've sent them away to die," Windsor told Fran Kelly.

"If we don't see the problem on the oceans around the perimeters of the nation there is not problem. Well that's not correct. There is a problem, and we saw it quite recently where people were just floating around aimlessly in various oceans looking for somewhere to go and no-one wanted to have them."

In May it emerged that thousands of Rohingya asylum seekers had been left adrift at sea as multiple countries in the region refused to allow them to land.

Prime Minister Tony Abbott said Australia would not assist those who refused to come through the 'front door', a characterisation angrily rejected by Rohingya community groups.

As the former member for the NSW seat of New England, Windsor joined fellow Independent Rob Oakeshott in providing crucial support to Julia Gillard after the 2010 election, allowing Labor to form a minority government.

Windsor has previously spoken out about the hard-line policies and politicisation of the refugee issue, but also maintained his support for the Gillard then Rudd governments as they moved towards more punitive policies, including offshore detention and processing.

"There needs to be a regional approach. The UNHCR, the United Nation, all of the players [agree], and Australia could play a leadership role, that's what we were trying to do in that hung parliament," Windsor said today.

"We just seem to have gone into this very hard, cold world where [we say]: 'let's shut everything down, keep it secret. If something wrong is happening, well, if people don't know who cares?' And that's atrocious."

Windsor also used the interview to throw down the gauntlet to Joyce, who won the seat of New England after the Independent declined to recontest it at the 2013 election.

It was revealed yesterday that Federal Environment Minister Greg Hunt had approved the controversial Shenhua Watermark coalmine, which will consume prime farming land in the New England electorate, and has provoked anger among farming groups.

The issue could be a handy wedge for Windsor to wield against Joyce, who has denounced the decision, but will have to convince voters he did everything possible to prevent it from going ahead.

Windsor said the mine threatened some of the world's best agricultural land, but particularly drew attention to its potential impact on water.

"This is really an issue about risk management and water, and the impact that it has on agriculture," he said.

Windsor said he hadn't made a firm decision on returning to parliament, but said the approval of the mine was pushing him to consider it.

<https://newmatilda.com//2015/07/09/weve-sent-them-away-die-tony-windsor-lashes-out-hard-line-refugee-policies>

## 13. Oscar winner speaks out about Australia's "inhumane" treatment of asylum seekers

Sydney Morning Herald  
July 10, 2015 - 1:18PM  
Garry Maddox

Anger and disappointment are unexpected emotions for an Australian filmmaker who has won an Oscar, an Emmy and has just had her portrait reach the finals of the Archibald Prize.

Yet it was just those emotions that brought Eva Orner back from living in the United States to make a documentary about what she describes as Australia's "woefully inadequate" treatment of asylum seekers.

"There seems to be an awful lot of confusion, lack of interest, ignorance and just evasion," she says. "If people really see what's happening they can make a more informed decision.

"And with what's been going on lately – paying people smugglers and new legislation whereby whistleblowers working on Nauru and Manus can be charged if they speak out about abuse – we are straying from democratic norms."

While living in the US for a decade, Orner produced Alex Gibney's 2007 documentary *Taxi To The Dark Side*, about US military torture, which won an Academy Award and an Emmy. She has since directed *The Network*, a documentary about a television station in Afghanistan.

Yet she considers *Asylum*, which is currently in post-production before a cinema release next year, as the hardest film she has made.

"There are more displaced persons in the world now than ever before – over 60 million," she says .

"With what's going on in places like Syria and Libya and Iraq and Africa, I've never felt so overwhelmed. There's just this endless stream of people who are going to be seeking our help while some Western governments become more conservative and less compassionate."

As well as Australia, Orner shot *Asylum* in Indonesia, Cambodia, Lebanon, Afghanistan and Iran.

"We're looking at the issue through the lens of how Australia has dealt with it but every Western country has problems either facing them or looming," she says .

"The more I see, the more compassion I have. But I'm also aware that not everyone who has come to Australia seeking asylum is a legitimate refugee

"We look at that as well. I want to present as balanced a view as I can but clearly Australia's policies are woefully inadequate.

"The justification is saving lives at sea but we tow boats back and we pay people smugglers and if a doctor speaks out about abuse in one of the camps on Nauru or Manus that we're all paying for as taxpayers, they can go to jail for two years."

Orner is critical of both the Coalition and Labor governments for their policies over the past decade and a half.

"Mandatory detention began under Paul Keating. John Howard took it to another level with the Pacific solution around the Tampa time and 9/11 with offshore processing.

"Since then the only reprieve we've had was under Kevin Rudd, who then lost his position and came back even harsher by saying to the people on Manus and Nauru that you'll never come to Australia."

"The only way successive governments have been able to deal with this issue is by the most inhumane tactics that seem to be getting worse and worse – secrecy, turning people back, covertly paying people smugglers and recently sending people to Cambodia at a cost of \$55 million.

"For me the biggest thing is constantly renegeing on the UN refugee convention for which we're a signatory."

Knowing the subject of the film was politically tricky, Orner raised the budget privately rather than go to Screen Australia and state film agencies. She has found the number of private investors who have contributed to the film from around the world heart-warming.

Having met through an organisation that works with survivors of people trafficking and abuse in Asia, artist Sally Ross's portrait of Orner made the Archibald Prize finals this week.

Ross, who was also finalist last year with a portrait of musician Harvey Miller, said she was struck by Orner's "sheer, unselfconscious drive" and her large black spectacles.

"In our image-saturated world I would love to see less selfies, gourmet meals, renovations and lingerie models blowing kisses – and more pictures of humans like Eva Orner."

<http://www.smh.com.au/entertainment/movies/oscar-winner-speaks-out-about-australias-inhumane-treatment-of-asylum-seekers-20150710-gi8uq6.html>

## 14. George Newhouse: Let me clear up the government's clarification of the Border Force Act

Despite what the Australian government says, doctors and other professionals will not be protected if they blow the whistle on immigration detention

The Guardian  
George Newhouse  
Wednesday 8 July 2015 17.00 AEST

The Australian government moved on Tuesday to address what they believe are “factually incorrect and highly misleading” statements about the draconian secrecy provisions of the new Border Force Act.

The joint statement issued by the Department of Immigration and Border Protection and the Australian Border Force reflects the growing sensitivity to vocal protests from medical professionals, as well as questions asked about the act on the ABC’s Q&A program last Monday night.

Both the department and border force claim the new laws will not prevent concerned professionals from reporting cases of child abuse, or speaking about other matters of public interest relating to immigration detention centres.

It is surprising that government officials do not understand the practical implications of the new secrecy laws. They make it difficult, if not impossible, for doctors and other care workers to publicly raise their concerns without fear of two years imprisonment.

The minister has said that doctors, teachers or other care workers are protected from prosecution under the secrecy provisions of the Border Force Act by the operation of the Public Interest Disclosure Act, often called the “whistleblower law”. But outside of Australia the effectiveness of that safeguard is limited, because of a mismatch in the coverage of the two laws.

The Border Force Act contains strict secrecy provisions that cover all government contractors, including doctors, even outside of Australia. By contrast, the protection of the Australian whistleblower law does not extend to disclosures made about the conduct of a PNG or Nauran Government official or worker, or of any person who is not an Australian government contractor or officer. That includes detainees, or even a local priest in an offshore immigration detention centre.

In addition, the whistleblower law offers no protection to those who make a public disclosure about the actions of an Australian government minister or policy, even if it harms people.

For example, if the minister implemented a policy of refusing any refugee on Nauru or PNG medical treatment in Australia – even if it were recommended by a doctor – any disclosure of that action or government policy would not be protected by the whistleblower law.

If the problems outlined above aren’t enough to deter doctors and care workers from making public disclosures, the long list of hurdles within whistleblower law are likely to put them off.

These extensive bureaucratic requirements include the need to exhaust all internal complaints processes before any public disclosure of information occurs, which is likely to substantially delay disclosure and have a chilling effect.

Under the law, whistleblowers have to make complex legal assessments about whether their disclosure has been “adequately dealt with” under internal review procedures before they can speak out.

Once they go public, disclosure must be limited to the issue which was the subject of the original internal complaint. Too much disclosure is not protected, and there is little guidance about where the boundaries lie.

Finally, the whistleblower law is directed at disclosure of suspected or probable illegal or other wrongdoing. It would not normally protect the clinical and ethical consultations about patients that take place between medical practitioners within immigration detention centres, and their colleagues or specialists outside the immigration system.

It is true that there is an exemption to the secrecy provisions in the Border Force Act which would allow a medical or allied practitioner or a teacher to report suspected child abuse or neglect inside an Australian immigration detention centre. However this exemption only applies to workers in Australia because they are covered by State and Territory mandatory reporting laws.

Unfortunately and relevantly, this exemption is of no use to a doctor, teacher or care worker where Australian mandatory reporting laws do not apply, such as in Nauru or Papua New Guinea.

As a consequence, there is significant doubt about the effectiveness of the whistleblower law to protect health and care workers on Nauru and in PNG. The punitive secrecy provisions of Border Force Act operate so broadly there without any meaningful exemptions, contrary to the department and border force’s rhetoric.

Given the confusion, the government may do well to heed the advice provided by journalist Greg Sheridan, who isn't known as one of their "enemies", when he said "if it's not meant to affect journalists, if it's not meant to affect doctors and nurses and health workers – except them from the legislation".

<http://www.theguardian.com/commentisfree/2015/jul/08/let-me-clear-up-the-governments-clarification-about-the-border-force-act>

## 15. Lawyers and doctors reject assurances on detention centre secrecy

The Age  
July 8, 2015 - 6:00PM  
Nicole Hasham

A culture of fear among detention centre workers means neglect or abuse of refugees will remain hidden despite government attempts to assure workers they are free to speak out, doctors and a leading lawyer say.

Controversial secrecy laws, supported by the federal government and Labor, mean detention centre workers face up to two years in prison for recording or disclosing information they obtain from their job.

This has been widely interpreted as preventing doctors, teachers, counsellors and others from publicly discussing harsh conditions and potentially poor treatment of refugees in detention.

But a joint statement from Immigration and Border Protection Department secretary Michael Pezzullo and Border Force Commissioner Roman Quaedvlieg said claims that individuals were prevented from speaking out about matters of public interest or reporting child abuse, were "factually incorrect and highly misleading".

Mr Quaedvlieg said the laws "do not prevent medical professionals from seeking the best clinical outcomes for their patients".

He said workers could raise concerns using "robust" internal procedures.

However, doctor and refugee advocate John-Paul Sanggaran said such methods were often ineffective and complaints over refugee health could go unresolved for years.

Doctors for Refugees convenor and Sydney-based general practitioner Barri Phatarfod agreed, saying such concerns often ended up "in a dead-end street or mired in paperwork".

The statement said whistleblower laws meant officials who went public with concerns would not be prosecuted – a claim also made by Labor immigration spokesman Richard Marles.

But barrister and human rights advocate Julian Burnside, QC, said the laws, which fall under the Public Interest Disclosure Act, were stringent and difficult to satisfy.

Mr Burnside pointed to a potentially "powerful" defence in the separate border protection laws that allowed information to be disclosed if it reduced a risk to the life or health of a person.

But such a defence would have to be argued in court and "a lot of people don't relish the idea of being prosecuted at all, even if they are told that they'll win", he said.

Mr Burnside said neither major party properly scrutinised the legislation, which passed earlier this year, and argued the "blanket" secrecy provisions should be scrapped.

He said uncertainty around the laws meant "the chilling effect will operate and that's probably enough for the government's purposes".

Dr Phatarfod said that despite official assurances, the spectre of legal action meant the laws would have a deterrent effect.

"If you are a medical practitioner witnessing adverse events going on ... you are going to think twice about following your natural instinct, which is to report," she said.

<http://www.theage.com.au/federal-politics/political-news/lawyers-and-doctors-reject-assurances-on-detention-centre-secrecy-20150708-gi7o3r.html>

## 16. Nauru detention centre staff warned not to speak about 'anything that happens'

Save the Children operations manager emailed staff before Border Force legislation came in, warning them against disclosing information

The Guardian  
Paul Farrell  
Monday 6 July 2015 07.59 AEST

Detention centre staff were warned not to speak to journalists and other organisations about “anything that happens” on Nauru and Manus Island before a law forbidding disclosures came into effect.

On Wednesday an offence came into force as part of the newly formed Australian Border Force that carries penalties of up to two years’ in jail for detention staff who make unauthorised public disclosures.

More than 40 doctors, nurses, teachers and humanitarian staff who have worked in Australian immigration detention centres wrote an open letter to the federal government in protest.

Guardian Australia can reveal that the Save the Children operations manager on Nauru, Tony Still, warned staff on the island not to speak to journalists – or to external organisations – about “anything that happens” at the detention centre.

On Wednesday the immigration minister, Peter Dutton, appeared to contradict Still’s comments, when he said “the airing of general claims about conditions in immigration facilities will not breach the ABF act”.

An email obtained by Guardian Australia reveals that Still emailed all staff on the island warning them about speaking out from a “sense of anger and desire for retribution”.

It was sent following the announcement of the imminent closure of the school for child asylum seekers at the detention centre. There is no clear child protection framework at local schools outside the centre and concerns have been raised that child asylum seekers may be subject to corporal punishment.

Still wrote in the email: “I know it is an emotional time with realisation of the imminent school closure beginning to hit home.

“Often this can bring a sense of anger and desire for retribution. It would be remiss of me not to remind you of the commonwealth law ... that came into force seven days ago.”

He continued: “Under this act, it is a criminal offence punishable by imprisonment by up to two years for any person working directly or indirectly for the [immigration department] to reveal to the media or any other person or organisation anything that happens in detention centres like Nauru and Manus Island. It is irrelevant what we think of this law. This is ... the law and is enforceable.”

The email was sent in June, well before the new offence became law. It is unclear why Still said it was already in force. He did not outline the exceptions in the act that permit some limited disclosures.

Still wrote that while the parents of one asylum-seeker child at the centre were “devastated” by the closure of the school, they “impressed on me their delight and their pride with their daughter’s progress”.

He continued: “So rather than looking around at the fences, the barbed wire, the conditions and lack of resources that the asylum seeker have in RPC3; look instead at the asylum seekers eyes which light up when they see a red shirt, look also at their smile which brightens considerably when they recognise.”

Australian Lawyers Alliance spokesman Greg Barns said it was a threatening email that showed how the government was planning on using the new offence.

“What this email shows is that despite the minister seeking to pull the wool over the eyes of the Australian community, that the Department of Immigration fully intends to utilise this law to throw a cone of silence over ... Nauru and Manus Island,” he said.

“This is a threatening email and no doubt is a threat that will be repeated, because that’s how broad this new offence is.

“There is no doubt that the scope of this law is such that journalists and anyone who encourages the publication of information [may] be charged with aiding and abetting the principal offender.”

A Save the Children spokesman said: “It is appropriate for senior management to remind staff of their legal obligations while working on Nauru, particularly when new legislation is coming into effect. The protection and welfare of children is at the core of what Save the Children does, and we have meticulous reporting mechanisms in place to raise any incident of concern in the appropriate forum.”

The immigration minister did not respond to requests for comment.

The open letter sent by former detention staff on Wednesday issued a direct challenge to the prime minister, Tony Abbott, to prosecute them for speaking out.

The new law has drawn heavy criticism from peak bodies, including the Australian Medical Association and Australian Education Union.

The World Medical Association also spoke out about the offence and called on Abbott to amend the laws to allow for a public interest defence.

<http://www.theguardian.com/australia-news/2015/jul/06/detention-centre-staff-warned-not-to-speak-out-auru>

## **17. Australian doctors rally over threat of jail for speaking about asylum seekers**

Healthcare workers protest in Sydney, a week after a Melbourne rally, over new laws they say put detention centre workers at risk of jail if they report abuse

The Guardian  
Australian Associated Press  
Saturday 11 July 2015 14.31 AEST

Doctors and medics have rallied in Sydney in solidarity with healthcare workers at detention centres who they say have been barred by the Australian government from reporting abuse.

More than 250 doctors, nurses and psychologists have protested against laws that threaten jail for those who speak out about violations in detention centres. It follows a similar protest in Melbourne last week.

Medics and their families packed the steps of Sydney's Town Hall and covered their mouths to send a message of opposition to the secrecy provision of the federal government's new Border Force Act.

Under the legislation "an entrusted person" must not disclose protected information, with a breach potentially resulting in two years' jail.

University of Sydney professor Maria Fiatarone Singh addressed the protesters, calling for the government to amend the legislation to allow detention centre workers to report violations without fear of prosecution.

"How does reporting that a child has been raped by a guard ... threaten national security?" she said on Saturday. "The silence must end."

Protester Dr James Genge said he felt compelled to rally with his children because the federal government had acted against what was "intrinsically, morally right".

"If someone is not in detention and a child is being abused, you'll go to jail if you don't report it," he said. "But if someone is in detention and you report it, you could go to jail. It defies logic. We still owe people in detention the right to be protected."

<http://www.theguardian.com/australia-news/2015/jul/11/australian-doctors-rally-over-threat-of-jail-for-speaking-about-asylum-seekers>

## **18. Health professionals call on Federal Government to repeal laws that prevent them speaking out**

Doctors, health professionals call on Federal Government to repeal laws that prevent them speaking out about detention centres

ABC News Online  
Posted Sat 11 Jul 2015, 11:02am

Doctors and health care professionals have called on the Federal Government to repeal legislation that stops them from speaking out about their work in detention centres.

Around 250 protesters gathered at Sydney's Town Hall to sign an open letter against the Border Force Act, which they said criminalises detention centre whistle blowers.

The new law threatens imprisonment for those who speak out against abuse of asylum seekers and about health care violations in onshore and offshore detention centres.

One of the doctors involved in the protest, general practitioner Michael Burke, said the legislation increased secrecy around what happened in detention facilities.

"I'm very concerned that there are events happening in refugee centres that aren't being reported," he said.

"I think the health professions have always worked to advocate and care for people and we have a worrying trend that that role has been diminished."

The Government said the laws protected national security and did not prevent medical staff from raising concerns internally.

### ***Detention centre laws described as 'appalling'***

At the rally, doctors vowed to speak out about human rights abuses in detention centres even with the threat of prosecution.

Doctor Harriett Gunn said there was evidence of "harmful care" on Nauru and any future abuses should not be kept secret.

"A lot of people we know who have gone there say the things that have been seen are so awful that as a doctor they have an obligation to [report the conditions]," she said.

"And in 10 years' time if they don't speak out there will be questions saying why did these people go with the legal laws that were put in place and why didn't they speak out."

Professor Maria Fiatarone Singh said under the current legislation there was no protection for doctors and other health workers if they spoke out about detention centre conditions.

"Really the onus should be on the side of the health professional to, even if there's any suspicion of something going wrong, just air [issues] and see if we could correct it," she said.

"This law has a very chilling opposite effect and it's just appalling. It's unheard of."

<http://www.abc.net.au/news/2015-07-11/doctors-protest-detention-centre-laws-at-sydney-town-hall/6612532>

## **19. Australian Silence Endures As NZ Joins UN and US In Concerns Over Nauru**

As the situation on the island deteriorates, Australia has continued its vital financial contributions to the nation. Max Chalmers reports.

New Matilda  
7 Jul 2015  
By Max Chalmers

New Zealand is ramping-up pressure on Australia to respond to the degrading political and legal situation on Nauru, with the country's Foreign Minister confirming he will have a one-on-one meeting with Nauru's President at a Pacific Island Forum meeting in Sydney on Friday.

Politicians from across New Zealand's political divide have united in recent weeks, criticising the Nauruan government for a crackdown on opposition figures and civil rights since coming to power.

While Australian Foreign Minister Julie Bishop is also reportedly seeking assurances from the Nauruan President, she has declined to publicly criticise the country's leaders.

"The Australian Government is monitoring the developments in Nauru closely and continues to engage with the Government of Nauru and other regional partners," a spokesperson for Bishop said.

Hundreds of asylum seekers who had attempted to reach Australia by boat remain interned on the island, with hundreds more trying to settle into the community having been processed as refugees and released from detention.

Documents lodged at an ongoing Australian Senate Inquiry revealed allegations of sexual assault and violence in the centre have continued in recent months.

Meanwhile, Nauruan President Baron Waqa and influential Justice Minister David Adeang have found themselves at the centre of a damning investigation into corruption on the island, with the ABC unearthing emails suggesting mining company Getax paid the men thousands of dollars in bribes.

In January 2014 the Nauruan government confirmed it would increase the cost of a visa for visiting journalists from \$200 to \$8,000. Since then, Facebook has been blacked-out, a decision which drew condemnation from the US State Department and the United Nations.

A number of opposition MPs have been arrested in recent weeks, or prevented from returning to the island. The local media is banned from interviewing them.

A former magistrate who was expelled from the island has blasted it a "rogue state", and said the government had not demonstrated a commitment to the rule of law.

In response, New Zealand has upped its criticism.

On Monday evening Prime Minister John Key said a response from both Australia and NZ would be "beneficial".

"Certainly, what we're seeing taking place up there is worrying to us," he said.

The New Zealand parliament last week unanimously passed a motion expressing concern about the government's alleged interference with the judiciary, and removal of civil and political rights.

Despite the worsening situation, Australia remains the country's major backer. In 2013-14 Australia provided 20 per cent of Nauru's domestic revenue, and \$25.9 million in aid is expected to be delivered this year.

New Zealand has not ruled out cutting its aid contributions to Nauru, which total just \$2.3 million.

The Senate Inquiry into the Australian backed detention centre has unearthed shocking claims, including that guards paid refugees for sex and then distributed the footage, and that Senator Sarah Hanson-Young was spied on when she visited to inspect the island.

<https://newmatilda.com/2015/07/07/australian-silence-endures-nz-joins-un-and-us-concerns-over-nauru>

## **20. Asylum-seeker victim of government privacy breach fears being murdered by the Taliban**

Brisbane Times  
July 10, 2015 - 5:10PM  
Nicole Hasham

He was threatened with beheading by the Taliban after immigration officials leaked his private details online, and now asylum seeker Nadir Sadiqi fears he will be sent home to certain death in Afghanistan.

Mr Sadiqi was among 10,000 asylum seekers – about one third of those held in Australia at the time - whose identities were revealed in a massive data breach by the Department of Immigration and Border Protection in February last year.

Their names, nationalities, arrival dates and other details were published on the department's website in a serious breach of privacy.

It raised grave concerns that those who had fled dangerous situations were exposed to an even greater risk.

Mr Sadiqi's worst fears were realised a few months later when he received a death threat on Facebook from a group purporting to be the Taliban. He believes they tracked him down using the leaked details.

Mr Sadiqi, a Hazara who lives in Brisbane, said the Taliban wrote: "you've gone to an infidel country so your killing is obligatory. As soon as you come back to Afghanistan you will be beheaded".

Frightened, he deleted the message and closed his Facebook account.

Mr Sadiqi, 31, fled Afghanistan after his family suffered religious persecution by the Taliban. He says he was bashed after refusing to join the group's fight against western troops, including Australia. Years earlier his father was murdered and his two brothers were kidnapped, and presumably killed.

He fled to Pakistan with his wife, children and other family members. Although Hazaras also face persecution in Pakistan, financial and other reasons meant his family was forced to remain there as he made the perilous boat journey to Australia. He arrived in 2010.

Mr Sadiqi has sought asylum and is on a bridging visa which expires on August 6. In a letter from immigration officials sighted by Fairfax Media, he was told the visa allowed him to stay in the community "while you make arrangements to depart Australia".

However the government is still assessing the extent to which Mr Sadiqi and other asylum seekers were affected by the data breach, and refugee advocates have questioned why he has apparently been ordered to leave before that process is complete.

Mr Sadiqi is suffering depression and said he cannot sleep at night.

"I feel terrible and I'm very scared. I'm afraid the government will take me in the middle of the night and send me back to Afghanistan. As soon as I arrive in Kabul I will get killed."

Mr Sadiqi recorded a video message for Immigration Minister Peter Dutton, pleading to be allowed to stay, which has been provided to Fairfax Media. A change.org petition calling for him to be granted asylum had garnered 20,000 names at the time of online publication.

Despite Mr Sadiqi apparently slated to leave Australia next month, a Department of Immigration and Border Protection spokesman said his assessment relating to the data breach was "under active consideration".

"Australia does not return asylum seekers to their countries of origin until all claims for protection have been fully considered," he said.

The spokesman said it improved its information management after the data breach.

<http://www.brisbanetimes.com.au/federal-politics/political-news/asylumseeker-victim-of-government-privacy-breach-fears-being-murdered-by-the-taliban-20150710-gi9hez.html>

## **21. Morrison paused UNHCR refugee referrals as immigration minister**

Former Immigration Minister Scott Morrison put a pause on accepting all new refugee referrals from the United Nations refugee agency late last year.

SBS News

Source: AAP

9 Jul 2015 - 11:46 AM

The federal government stopped adding United Nations-approved refugees to its resettlement waiting list for four months last year, department documents reveal.

The October decision, taken when Scott Morrison was immigration minister, wasn't made public although the government did tell the UN, documents obtained by AAP under freedom of information show.

"While the decision has been communicated to (United Nations High Commissioner for Refugees) headquarters, the minister has asked expressly that it not be made public and as a result should be treated with appropriate sensitivity," an immigration department official wrote in an email when the pause was put in place.

Department documents indicated the halt on applications was expected to end on January 31.

Mr Morrison announced last November Australia would not take any more asylum seekers who had applied for resettlement through the UNHCR office in Indonesia after July 1, 2014.

At the time he said the processing ban didn't extend to UNHCR applicants in other countries.

According to a talking points document the department prepared in November, the two matters were not linked.

It said there needed to be a pause on adding to the offshore humanitarian program waiting list, because it was already under significant pressure with 75,000 unfinalised applications - including from 50,000 people with relatives in Australia seeking family reunions.

"We have sufficient UNHCR referrals on hand to deliver all 6000 refugee places (under the offshore humanitarian program)," the department said. Australia resettled a total of 13,750 refugees in 2014.

Recent violence in Iraq and Syria had led to high demand and there had also been an increase from Burmese and African applicants, the department said. It maintained the pause did not affect the government's commitment to granting 4400 resettlement places to Iraqis and Syrians in 2014 or plans to take a further 4500 Syrians over three years.

Comment has been sought from Immigration Minister Peter Dutton and the UNHCR.

<http://www.sbs.com.au/news/article/2015/07/09/morrison-paused-unhcr-refugee-referrals-immigration-minister>

## 22. ALP urged to relax harsh policies on refugees

Canberrans urge party to live up to its claims to stand for a "fair go" and to support the disadvantaged and the powerless.

The Age  
July 4, 2015  
Sanjay Bhosale

Canberrans eager to see a change in the ALP's policies on refugees and asylum seekers will have a chance to have their say via an open letter to the ALP before the party's national conference in Melbourne from July 24-26.

The open letter, to be published in The Canberra Times on Saturday, July 11, is among a number of initiatives organised before the conference by the Canberra Refugee Action Committee to demand a change in Labor's refugee policies that were adopted in the dying days of the Rudd government.

The open letter, titled "Refugees: Labor Must Change", will urge Labor to shift course on the issues of mandatory detention, offshore processing and towing back boats, after Opposition Leader Bill Shorten signalled that Labor was all but set to continue the Abbott government's harsh, cruel and unjust policies if it wins the next election.

Many prominent Canberrans are among more than 100 people who have signed up to the initiative, including former chief minister Jon Stanhope, retired Bishop Pat Power, Associate Professor Matthew Zagor, of the ANU College of Law, Dr Sue Wareham OAM, Heather McGregor OAM, Rev Dr John Brown AM and Emeritus Professor Andrew Hopkins.

Many of the signatories have expressed disgust, disappointment and despair at Labor's willingness to abandon its long-standing commitment to fairness, decency and generosity towards refugees and asylum seekers for short-term electoral gain.

The letter will urge delegates to the ALP conference to adopt a fair, humanitarian and rational platform that will bind a future Labor government on asylum seeker and refugee policy.

Numerous reports have shown the current policies have irreparably harmed men, women and children held in detention. They have left Australia's international reputation as a responsible global citizen and a welcoming nation in tatters and encouraged mean, xenophobic and racist sentiments in our community.

At the ALP national conference, Labor for Refugees will put forward amendments to the proposed ALP platform, calling for decent policies to be adopted once again – including the immediate closure of the detention centres on Manus Island and Nauru, the release of all children from detention (both offshore and on the mainland) and an end to mandatory and indefinite detention.

"We urge all of those of conscience in the Labor Party to support these amendments. Labor claims to stand for a "fair go" – that its policies support the disadvantaged and the powerless.

"This is a transparently false claim as long as the refugee policies it has adopted in practice remain," an extract from the draft letter reads.

"Labor must change on refugees. If not at this conference – at which? If not at the next election – at which future one? If Labor cannot find the courage to support fairness now, why would we expect that it will ever do so," the letter asks.

RAC is also organising a public meeting on Wednesday, July 15, to highlight Labor's policies and foster informed community discussion on this issue.

The meeting, with the theme, Refugees: Labor Must Change, will be held at the Woden Tradies Club (corner of Furzer and Launceston streets) from 6.30pm in the Stromlo Room.

The speakers include Stanhope, Unions ACT secretary Alexander White and convener of NSW Labor for Refugees, Jenny Haines.

As former administrator of the Christmas and Cocos (Keeling) Islands, Stanhope witnessed firsthand the inhuman and degrading treatment of asylum seekers and refugees under the government's Operation Sovereign Borders.

RAC is also planning a bus trip to Melbourne for interested Canberrans to join a rally outside the Melbourne Convention Centre, the venue of the ALP conference.

The return trip costs \$75, but participants have to make their own accommodation arrangements.

Hundreds of refugees detained on Manus Island, Nauru and on the mainland continue to suffer untold mental agony and physical harm as a result of the government's stop the boats policy.

In a further aggravation of the situation of asylum seekers and refugees, the Border Force Act, which came into effect on Wednesday, makes it a crime for whistleblowers and "entrusted persons" to speak publicly about conditions in the detention centres, punishable by two years in jail.

There are genuine fears the law will muzzle doctors, nurses and other staff in detention centres and further shield the ongoing abuse of the detainees from media and public scrutiny.

The government claims its policies and the secrecy surrounding them are necessary to stop the "evil" trade of people smuggling.

But there are other, much better approaches to dealing with asylum seekers and refugees. Indeed, Australia led the way in the Indochinese refugee crisis of the late 1970s and early '80s when tens of thousands of refugees were resettled here in a safe and orderly manner.

Processing refugee applications in countries to which the refugees had fled – such as Malaysia and Thailand – enabled them to be brought to Australia without forcing them to risk further dangerous sea voyages.

There was no system of mandatory detention and because of its compassionate approach, Australia was in a position to negotiate with other developed countries to resettle more refugees and with other countries in the region to make the process workable.

The current government's policies may have reduced the number of boat arrivals, but at what cost? They will have reputational consequences for Australia for years, if not decades.

Just as the government now apologises for the Aboriginal stolen generations and for the abuse of children in government and religious institutions, a future Australian prime minister will have to apologise for the horrors of children in detention and the deliberate persecution of vulnerable people for electoral gain.

There is one bright spot in this otherwise bleak picture: the ACT government's positive and principled approach to refugees and asylum seekers.

In late June, as part of Refugee Week celebrations, Multicultural Affairs Minister Yvette Berry declared the national capital a "refugee welcome zone".

"Becoming a refugee welcome zone is a way to continue our proud tradition of supporting refugees and make a public commitment to welcome refugees into our community, uphold the human rights of refugees, demonstrate compassion for refugees, and enhance cultural and religious diversity in our community," Berry said.

"It will also act to highlight and acknowledge the important work of local community groups and individuals that support refugees and asylum seekers and raise awareness about the issues that affect refugees, to demonstrate support for refugees and to stand against racism and discrimination, to pursue a more active role in advocating for refugees and asylum seekers, and a more coordinated approach to support refugee settlement.

"As a delegate to the Australian Labor Party's national conference this year I look forward to advocating for these values in our platform so that we can see a change at the federal level as well."

++++ Those interested in signing the open letter to the ALP or travelling to Melbourne for the ALP national conference can email [mail@refugeeaction.org](mailto:mail@refugeeaction.org). More details on the bus trip are at [facebook.com/events/103452743330367/](https://facebook.com/events/103452743330367/)

>>>> *Sanjay Bhosale is a member of the Canberra Refugee Action Committee*

<http://www.theage.com.au/comment/rac-oped--needs-new-head-20150704-gi47qb>

## **23. Labor's left vexed by boat turnbacks and China trade deal before party conference**

A meeting of Labor's left in Sydney fails to reach a stance on asylum seekers but backs more women candidates and a say on Senate preselection for members

The Guardian  
Daniel Hurst Political correspondent  
Sunday 5 July 2015 18.15 AEST

Labor's left faction is yet to settle its position on the politically controversial issue of turning back asylum-seeker boats, ahead of the party's national conference at the end of the month.

Guardian Australia understands a weekend meeting of the national left in Sydney has not finalised a position on the issue, amid a push from elements of the right faction either to endorse turnbacks explicitly or remain silent on the procedure.

But there is broad support within the national left to update the Labor party's rules, including moving towards an affirmative action target of 50% of candidates being women, and ensuring that the party's rank and file have 50% of the say in Senate preselections.

The left faction's attitude towards trade policy, meanwhile, depends in part on how the federal parliamentary party deals with the Abbott government's trade agreement with China, which has attracted strong concerns within the union movement about provisions making it easier for workers to come to Australia.

Left faction-aligned delegates, union representatives and activists met in Sydney on Saturday and Sunday to discuss key issues ahead of the national conference, which will take place in Melbourne from 24 to 26 July.

The factional representation at the forthcoming conference will be the most finely balanced in many years, with the left expecting to have about 196 delegates, while there will be about 197 delegates aligned to the right faction and four unaligned delegates.

The national left meeting was intended to develop the faction's negotiating position on key issues, but its stance on the thorniest issues is not likely to be settled until a meeting of left delegates on the eve of the conference.

Boat turnbacks are considered one of the most contentious issues for the party to grapple with at the conference, and left faction members have long been uneasy with the signature Abbott government policy.

The opposition leader, Bill Shorten, and immigration spokesman, Richard Marles, who are both from the Victorian right faction, have been in a holding pattern, publicly calling for less secrecy about boat turnback operations as a precursor to Labor making a definitive call on the policy.

Senior left sources said the faction was yet to resolve the issue of turnbacks, but people were "acutely aware" of significant differences within the party about it.

They were also aware of the political importance of the issue and mindful of the possibility a federal election could be imminent. The prime minister, Tony Abbott, and his immigration minister, Peter Dutton, have already sought to exploit Labor divisions, arguing the party was "tying itself in knots" over boat turnbacks.

Some left figures are pushing for greater emphasis on a regional approach to asylum seekers, including regional processing along the lines mapped out in the 2012 report prepared by a panel headed by former defence chief Angus Houston.

Labor's draft national platform – distributed before the conference – calls for asylum seekers to be treated "with dignity and compassion" and emphasises the need for international cooperation and independent oversight of detention facilities. The draft platform suggests the party would abolish temporary protection visas but the document is silent on the issue of turnbacks.

A senior left source said of turnbacks: "It's fair to say no position was agreed to. Discussions are going to continue right up to the national conference."

The left's stance on party rules is more concrete. Sources said the faction was committed to greater democratisation of the party by ensuring decisions on Senate preselections and national conference delegates were 50% decided by rank-and-file ballots.

Left figures also supported improving the operation of the party's current affirmative action targets for preselections, and moving towards a goal of 50% female representation. The present rule is at least 40%.

Trade policy – often a point of contention at Labor's national conference – could become an issue. Left sources said the focus was currently on the federal opposition's response to the China free trade agreement (FTA) and the forthcoming Trans Pacific Partnership (TPP).

The biggest concerns with the China FTA relate to labour movement provisions, including a mechanism that would allow Chinese workers to be brought to Australia to work on infrastructure development projects worth \$150m or more.

Parliamentary committees are currently scrutinising the details. Any legislation needed to implement aspects of the deal would have to be put to parliament for a vote.

<http://www.theguardian.com/australia-news/2015/jul/05/labors-left-vexed-by-boat-turnbacks-and-china-trade-deal-before-party-conference>