

Project SafeCom News and Updates

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1. Call to suspend hate laws 'disgraceful': Gillian Triggs

The Age
February 17, 2016
Judith Ireland

The Human Rights Commission has rubbished the Australian Christian Lobby's call for anti-discrimination laws to be suspended during the same-sex marriage plebiscite, describing it as "outrageous" and based on a misunderstanding of the law.

In a separate move, about 40 religious leaders have written to Prime Minister Malcolm Turnbull urging him to ditch the plebiscite plan altogether, arguing it will damage the standing of religious communities and harm the mental health of gay people.

Responding to the ACL's push to have anti-discrimination laws "set aside" during the plebiscite campaign to ensure free speech, Australian Human Rights Commission President Gillian Triggs said it was a "disgraceful way of dealing with the issue".

"[They] are saying that we have to stand down or suspend the laws so that you can do what would otherwise be a vilification," Professor Triggs told Fairfax Media on Tuesday.

"It's an outrageous proposition and it's highly misguided."

Professor Triggs said the ACL's call for the federal government to "override" anti-discrimination laws, particularly state-based laws, was "based on a failure to understand the way the law works".

She said the right to freedom of religious views was one of the best-protected rights in Australia because it was entrenched in the Constitution, adding there was no federal law against vilification on the basis of sexuality and only Queensland, NSW and the ACT made it unlawful to incite hatred on the basis of sexual orientation.

While Tasmania takes a broader approach, Professor Triggs said there was no rush of findings against free speech in the state.

"It is a very, very high threshold," she said, countering the ACL argument that current laws would make the "no" camp vulnerable to "the constant threat of quasi and full-blown legal action" during the plebiscite.

Victorian Minister for Equality Martin Foley wrote to Attorney-General George Brandis on Tuesday, outlining his concerns that "weakening anti-discrimination laws will further hurt LGBTI Australians". Shadow Attorney-General Mark Dreyfus also slammed the ACL's proposal, saying: "If you need to offend in order to convince people, you've already lost".

As debate about the process of a plebiscite continued, representatives of Anglican, Uniting and Baptist churches wrote to Mr Turnbull, calling for Parliament to resolve the issue instead.

The letter warns a plebiscite risks providing a platform for "disparaging LGBTI Australians and their families, leading to increased incidents of anxiety, depression and suicide," and could "discredit the voice of faith communities more generally on public matters".

Pastor of Sydney's Wayside Chapel Graham Long said he was a signatory because the plebiscite would see opposing sides to "dig into their trenches" and "throw bombs".

"I'm really struggling to see where the wisdom is," Reverend Long said. "The other idea is we could use our Parliament as a Parliament."

The letter also expresses concern that the "negative case" in a plebiscite would be put by religious groups and leaders "who claim to speak on behalf of people of faith generally, or religious institutions as a whole".

Letter organiser, Angus McLeay of Merri Creek Anglican in inner-city Melbourne, said it was a concern that the ACL could be seen to represent all Christians.

"The ACL represent certain, quite conservative viewpoints," Reverend McLeay said.

"The public, they just hear 'Christian' and they don't necessarily make fine distinctions."

On Wednesday, the ACL stood by its call for anti-discrimination laws to be set aside.

"None of our arguments vilify or hate and neither should they. The arguments are not the problem. The laws are the problem. In particular, the abuse of the laws and legal processes by activists," managing director Lyle Shelton said.

"State-based human rights commissions are often weaponised by activists against those with different views."

Senator Brandis was overseas on Tuesday and could not be reached for comment.

Last week in Senate estimates, he said there had been a "great deal of stakeholder consultation" on the plebiscite process and that he would take a submission to cabinet "in coming months".

There is no date set yet for the plebiscite, which is due after the federal election if the Coalition wins.

<http://www.theage.com.au/federal-politics/political-news/call-to-suspend-hate-laws-disgraceful-triggs-20160216-gmv5u8.html>

2. David Hicks: Australia violated his rights, UN human rights committee says

Jailing of former Guantánamo Bay inmate as part of transfer agreement with US came despite the fact his sentence was result of a 'flagrant denial of justice'

The Guardian
Calla Wahlquist and agencies
Tuesday 16 February 2016 15.42 EST

The Australian government violated the rights of the former Guantánamo Bay inmate David Hicks by keeping him in jail for months under a transfer deal with the US, UN human rights experts say.

The jailing was despite the fact the sentence imposed on him was the result of a "flagrant denial of justice", Fabian Salvioli, chair of the UN human rights committee, said on Tuesday.

The findings by the committee, which is composed of 18 independent experts, came after considering a complaint brought by Hicks about his treatment by Australia. It found a violation had occurred but ruled that the Australian government was not obliged to make reparation payments to Hicks.

"Transfer agreements are important because they allow prisoners convicted abroad to serve their sentences in their own country," Salvioli said.

"But states should not carry out a sentence if there is ample evidence that the trial clearly violated the defendant's rights, as was the case with Mr Hicks."

The decision to continue to jail Hicks as a result of the transfer deal "constituted a disproportionate restriction of the right to liberty" in violation of the international covenant on civil and political rights, the committee found.

Hicks was arrested in Afghanistan in 2001 and sent to the US naval base at Guantánamo Bay in Cuba in January 2002.

In March 2007, after pleading guilty under a plea agreement, he was convicted under the US Military Commission Act 2006 with "providing material support for terrorism" and given a seven-year sentence, most of it suspended.

He was transferred in May 2007 to Australia, where he served the remaining seven months of his sentence in prison.

Salvioli said by the time Hicks was transferred, there was a lot of information available that raised serious concerns about the fairness of the procedures by the US military commission. "That should have been enough to cast doubt among the Australian authorities as to the legality and legitimacy of the sentence imposed on him," he said.

Australian officials had also visited Hicks at Guantánamo and were in a good position to understand the conditions under which he was held and tried.

The commission wrote that in order to escape the violations to which he was subjected in Guantánamo, Hicks "had no other choice than to accept the terms of the plea agreement that was put to him".

"It was therefore incumbent on [Australia] to show that it did everything possible to ensure that the terms of the transfer arrangement that had been negotiated with the United States did not cause it to violate the covenant."

The committee said that as a party to the ICCPR, Australia was "obliged to make full reparations to individuals whose rights have been violated".

But in Hicks' case, Australia's actions were intended to help him and did mitigate the harm he would have suffered had he remained in US custody, and so the finding of a violation was sufficient reparation, the committee ruled.

Hicks successfully appealed against his terrorism conviction last year, in a unanimous ruling of the US court of military commission review.

Then prime minister Tony Abbott refused to apologise to Hicks, saying he had been “up to no good on his own admission” in Afghanistan in 2001, and a spokesman for John Howard, who was prime minister when Hicks was detained and later brought back to Australia, said at the time that Hicks: “revelled in jihad. He is not owed an apology by any Australian government.”

Hicks confronted the attorney general, George Brandis, at a human rights event in 2014 and said he was tortured “in the full knowledge of your party”.

After his exoneration, the 40-year-old later told Guardian Australia that it “feels good that I’m an innocent man,” adding: “I’m disappointed that even though the American and Australian authorities were aware of my innocence from day one, I still have to go through years of torture that ruined my life for no reason, for political purposes.”

<http://www.theguardian.com/australia-news/2016/feb/17/david-hicks-australia-violated-his-rights-un-human-rights-committee-says>

3. Obey ‘the boss’ or obey the law? The dilemma of detention policy

The DIBP secretary raised eyebrows defending the Commonwealth’s detention policy. But what if actually implementing it is a crime? A former prosecuting solicitor lays out a case for saying no to the minister.

The Mandarin
by Max Costello
Wed 17 Feb 2016

The Department of Immigration and Border Protection is considering returning — to the Manus Island or Nauru detention centres — each of the 267 asylum seekers who are currently in Australia to receive medical (including psychiatric) treatment, or, in a few instances, to support a family member receiving treatment.

However, each “return or not return” decision is not a matter of pure discretion, it’s a matter of law — hence, as we shall see, the dilemma.

Specifically, the decision-making is governed by the criteria set out in the Work Health and Safety Act 2011 (Cth). The WHS Act applies to all detention centres because each one is a Commonwealth “workplace” as defined by Section 8.

The Act sets out two decision-making criteria. The first criterion is “health”, including “psychological health”. The second is “safety” — which is particularly apt, given the evidence of assaults at both offshore centres (and one murder on Manus) and of sexual assaults at the Nauru centre, including 15 reported sexual assaults on minors between January 1, 2014 and June 30, 2015. (Evidence of Cheryl-Anne Moy, the department’s first assistant secretary for children to the Senate Select Committee concerning Nauru, July 20 2015.)

Three Act provisions stipulate how risks to health and safety must be considered and prevented:

- Section 18 requires workplace operators to identify all significant risks of harm.
- Section 17 says those risks must then be eliminated, or, if that’s not reasonably practicable, at least minimised.
- Section 19, headed “Primary duty of care”, imposes a duty on all workplace operators (such as the Commonwealth, via the department, at detention centres) to “ensure, so far as is reasonably practicable,” that both workers and “other persons” (asylum seekers) are not exposed to preventable workplace-related risks to their health and safety.

And so, applying firstly the criterion of “health” including psychological health, the department would need to assess each individual’s vulnerability to health risks.

Medical research, led by the Australian Human Rights Commission on October 16-18, 2015 and promptly reported to the department, found alarming evidence about the psychological vulnerability of children, held at Darwin’s Wickham Point detention facility, who might be sent to Nauru.

The children interviewed — most of whom had spent several months in Nauru — are amongst the most traumatised children the paediatricians have ever seen.

Secondly, as to “safety”, the department’s decision-making would need to take into account the serious risks of assaults at both centres and sexual assaults on Nauru.

Failure to comply with an Act duty, including the Section 19 duty of care, is a criminal offence, with heavy maximum penalties.

They range from a mere non-compliance fine of \$500,000 for the Commonwealth (effectively, the department) and \$100,000 for an officer, up to a “reckless” non-compliance fine of \$3 million (department) and \$600,000 and/or five years’ jail (officer).

Who might face officer penalties? Every “officer” (the secretary, plus anyone who makes or participates in decisions affecting the whole or most of the department) who fails to comply with section 27’s onerously pro-active “officer” duty — to “exercise due diligence to ensure that [the department] complies with [every health and safety] duty”.

Summing up, the department owes a Section 19 duty of care to each individual asylum seeker, and knows that:

- (1) sending asylum seekers from Australia to Manus or Nauru would expose them to serious safety risks;
- (2) prolonged detention is a serious risk to psychological health; and
- (3) Wickham Point children actually are — and all long-detained asylum seekers probably are — vulnerable to that risk (note that the average detention period is now 445 days, according to the department’s December 2015 statistical summary).

It would be “reasonably practicable” for the department to ensure, in compliance with Section 19, that no-one is exposed to preventable risks — risk #1 by keeping all 267 in Australia; risk #2 by moving all long-detained individuals to non-detention settings.

Let’s assume that, nonetheless, the Commonwealth/the department sends some asylum seekers offshore, exposing them to one or both risks.

Speaking of risks, the department would risk being charged with committing one “fail to comply with duty” offence per send-back decision. So might departmental officers who didn’t diligently try to ensure that the department complied with its section 19 duty.

Once charges were laid, not only would the parties charged be in potential trouble — so would Australia’s international reputation. Having a draconian asylum seeker policy is one thing; implementing it by apparently criminal means is quite another.

If, however, scrupulous compliance with the Act were to result in none of the 267 being sent offshore soon, the Commonwealth should not be surprised — its own long record of non-prevented harm to Manus and Nauru detainees has effectively made sending an asylum seeker to either centre nowadays a potential workplace-related crime.

<http://www.themandarin.com.au/60539-max-costello-detention-policy-obey-boss-obey-law/>

4. Phil Robertson: Eroding human rights in Australian foreign policy, one asylum seeker at a time

The human rights principles once a core part of Australia’s foreign policy have been undermined by its single-minded determination to stop the boats

The Guardian
Phil Robertson
Tuesday 16 February 2016 23.25 EST

The scene happens every day in capitals across south-east Asia: a strategy session in an ambassador’s ornate sitting room over coffee with like-minded senior diplomats from the US, Canada, and EU member states trying to figure out how to persuade a national government to reverse course on human rights. On this particular day in Bangkok the ask was a tough one, demanding the government stop arresting and roughing up critics, chastising and censoring the media, and cracking down on public protests.

Human Rights Watch got a rare invite, and during the inevitable brainstorming, I asked “Where is Australia, why aren’t they here?”

Eyes lowered and heads shook ever so slightly around the room. Talking like a friend has fallen off the wagon, one diplomat said “We’re not sure of them anymore. They’re going a different way.”

Left unsaid in this polite circle is that the human rights principles once a core part of Australia’s foreign policy have been undermined by its single-minded determination to stop boats of asylum seekers and migrants “by hook or by crook.”

Last year was a hard one for human rights in many parts of Asia, with governments arresting and jailing critics in opposition parties and civil society, trying to put the internet genie back in the bottle through censorship and cyber-crime laws, and cracking down on NGOs and community groups with new draconian regulations.

Repression in Thailand is in full swing under the military government. Prime minister Najib of Malaysia has arrested dozens of people for publicly criticising his government. Cambodia, Laos and Vietnam routinely arrest and jail dissidents using ruling-party controlled courts. Myanmar has a new government but no solution to end the repression of ethnic Rohingyas. Religious minorities in Afghanistan, Pakistan and Indonesia face blasphemy charges, death threats, and massacres.

Australia is rarely pushing for rights-respecting solutions these days – and more than that, is too often part of the problem. Politicians trapped in the refugee policy dialogue in Canberra frequently fail to recognise that Australia's boat push-back policies, and offshoring asylum seekers into abusive conditions of detention in Nauru and on Manus Island, are seen as a green-light by Asian governments to do the same: send asylum seekers and refugees back into harm's way or lock them up in indefinite detention.

For example, during the south-east Asia boat people crisis in May 2015, the Thai, Malaysian and Indonesian navies played a cruel game of "human ping-pong" by pushing away boats of starving and sick Rohingya. At a time when the governments were prepared to let these people float around waiting to die, then prime minister Tony Abbott did the unconscionable by justifying those tactics, saying "if other countries choose to do that, frankly that is almost certainly absolutely necessary if the scourge of people smuggling is to be beaten." It suddenly became much harder for non-governmental organisations, governments, and UN agencies to persuade those three countries to bring the Rohingya to shore.

By soliciting governments to help stop boats, Australia also ends up looking the other way on other rights abuses. By cooperating with Australia to take back boats of their nationals, both Sri Lanka and Vietnam know they could count on Australia not to publicly raise concerns about the rights abuses that drove those people into the boats in the first place. Push backs by other countries are also met with silent acquiescence from Canberra. Australia said nothing when Thailand sent back 109 ethnic Uighurs in July to China to face torture in custody and long prison terms, and has kept silent as Beijing pursues its dissidents in Bangkok. China arrests and sends fleeing North Koreans back to the brutal regime of dictator Kim Jong-Un, and is met by deafening silence from down under.

Australia has praised Cambodia for signing the September 2014 Cambodia-Australia deal to resettle refugees from Nauru to Phnom Penh. Prime minister Hun Sen told Australia that Cambodia was safe for refugees to resettle – but don't tell that to ethnic Montagnards fleeing political and religious persecution in Vietnam who Cambodia hunted down in the border forests of Ratanakiri province and forced back into Hanoi's hands, all after the Australia deal was signed.

Meanwhile, Cambodia is laughing all the way to the bank with at least \$55m of Australia's taxpayer dollars for taking just five refugees so far from Nauru. All this for a deal that the UN high commissioner for refugees termed "a worrying departure from international norms" of refugee protection.

With the recent high court ruling, Australia now faces the return of 267 asylum seekers to Nauru and Manus Island, where they face possible renewed physical and sexual assault, and life in limbo.

Australia's international reputation has suffered enough – it's time to do the right thing by accepting its responsibilities, not only as a party to the UN Refugee Convention but also as a responsible neighbour and member of the international community, and provide this group with fair and timely refugee status determination in Australia. And for those found to be refugees, let them stay.

---->>>> *Phil Robertson is the deputy Asia director of Human Rights Watch*

<http://www.theguardian.com/commentisfree/2016/feb/17/eroding-human-rights-in-australian-foreign-policy-one-asylum-seeker-at-a-time>

5. Canada has rescued 800 times more Syrian refugees than Australia, figures show

Sydney Morning Herald
February 17, 2016 - 5:42PM
Nicole Hasham

Canada has resettled 800 times more Syrian refugees in three months than Australia has in almost twice the time, fuelling concern the delay is pushing desperate families in the Middle East into a perilous crossing to Europe.

Labor has called on Immigration Minister Peter Dutton to explain why Australia has resettled just 26 Syrian refugees five months after former Prime Minister Tony Abbott announced an emergency intake of 12,000 "as quickly as possible".

In just three months, the Canadian government has flown in 20,490 Syrian refugees.

The United Nations High Commissioner for Refugees says families sheltering in nations such as Lebanon and Jordan are struggling to find shelter, food, education and work, prompting them to risk their lives crossing the Mediterranean.

Refugee settlement agencies in Australia that readied for an influx of Syrians, including renting homes and amassing staff, have reportedly been forced to put their plans on hold.

But a spokesman for Mr Dutton said the government is conducting rigorous security and other checks that cannot be rushed.

At a Senate estimates hearing last week, immigration officials revealed just 26 Syrian refugees had arrived since the 12,000 intake was announced in September.

In contrast, official Canadian Government figures on Wednesday showed 20,490 Syrian refugees had landed in that country since November 4. A total of 25,000 are due to arrive by the end of February.

A spokesperson for Immigration, Refugees and Citizenship Canada, a government agency, said the nation was "getting refugees here as quickly as we can, and we're doing it in a way that is correct and appropriate and takes due concern for security, medical and other issues".

This included in-depth family interviews, the collection of biographical information and biometrics such as fingerprints and digital photos, checked against databases.

All refugees also underwent full medical examinations and criminal and security checks.

Canada's progressive Trudeau government was reportedly forced to defend its refugee screening last month after it was scrutinised by a Republican-controlled United States Senate committee.

Asked why the Turnbull government was lagging so far behind Canada, a spokeswoman for Mr Dutton said his government "takes our national security extremely seriously".

"Rigorous security checks are being conducted by Australian government agencies at a number of key points during visa processing, including the checking of biometric data," she said.

"Processing time varies according to the circumstances of individual applicants ... we will not rush this process and it will take whatever time it takes."

Labor's immigration spokesman Richard Marles said appropriate health and security checks were needed but "this is a pitifully small number" of refugees.

"The government made it pretty clear they would seek to relocate the people as quickly as possible. Mr Dutton needs to explain why the go-slow," he said.

Refugee Council of Australia chief executive Paul Power, who travelled to Lebanon in December to assess the refugee situation, said many were desperate.

"The fact that Australia's offer is happening so slowly is certainly not helping an incredibly difficult situation," he said.

Mr Power said refugee resettlement organisations in Australia had been left in the lurch after gearing up to deal with the emergency intake

"[Some] are paying for ... on-arrival accommodation for refugees who were expected to arrive a month ago [or] are paying the wages of staff to greet people as they arrive," he said.

One such organisation Fairfax Media spoke to confirmed they had been forced to find other uses for homes they rented for Syrian refugees.

Greens immigration spokeswoman Senator Sarah Hanson-Young accused the government of "trying to wriggle out of its commitment on the Syrian intake".

"The experience in Canada shows us that this can be done fairly, efficiently and safely. I urge the Australian Government to get on with it and start to protect these men, women and children who simply want to integrate into our community and rebuild their lives," she said.

<http://www.smh.com.au/federal-politics/political-news/canada-has-rescued-800-times-more-syrian-refugees-than-australia-figures-show-20160217-gmw7dz.html>

6. Australia's national security top priority when screening Syrian refugees, Dutton says

ABC News Online

By political reporter Stephanie Anderson

First posted Thu 18 Feb 2016, 10:50am

Updated Thu 18 Feb 2016, 11:11am

Immigration Minister Peter Dutton has defended the time it is taking to process Syrian refugees, emphasising the need for security checks.

The Federal Opposition has questioned why only 26 Syrians have arrived in Australia, five months after the intake of 12,000 refugees fleeing violence in Syria and Iraq was announced.

Canada has taken in 20,000 refugees within the same period, equating to a rate of resettlement more than 750 times faster than Australia.

Mr Dutton said several thousand people were currently waiting to have security checks, which should not be compromised.

He said Australia's national security was the top priority when processing refugee applications.

"The Australian public demands that the Government does everything possible to make sure that first and foremost our national security is protected and secondly to make sure that we're bringing the right people into our country so that they can start a new life," Mr Dutton said.

"If [the Opposition] is suggesting we should compromise on the security checks and express people in, then I think they should make that clear because I think that's at odds with what the Australian public demands."

Labor's immigration spokesman Richard Marles said he supported appropriate health and security checks, but the number of people resettled so far was pitiful.

Asylum seekers having medical treatment likely to return to Nauru

Mr Dutton also spoke on the future of a group of 267 asylum seekers currently in Australia, saying that those receiving medical treatment will be returned to Nauru once they have recovered.

The group, which includes more than 30 babies, could be sent back to Nauru after the High Court threw out a challenge to the government's offshore detention network earlier this month.

Mr Dutton said the government would be assessing each case individually, but it would not stray from its policy.

"The Government's resolve remains unchanged and that is to ensure that people who seek to arrive in our country by boat won't settle in our country," he said.

"We have provided medical support to a number of people off Nauru, as well as family members who are in good health but have travelled with a family member in need of that medical support.

"Once the medical support has been provided, then the person will be able to return to Nauru. That remains the position of the Government and we've been consistent on that from day one."

New Zealand Prime Minister John Key said this week it was "potentially possible" for New Zealand to take in some of the asylum seekers, citing an agreement made with the former Gillard government in 2013.

Mr Key is due to meet with Prime Minister Malcolm Turnbull tomorrow, when the fate of the group is due to be discussed.

<http://www.abc.net.au/news/2016-02-18/federal-government-too-slow-on-refugee-intake-says-opposition/7180462>

7. Elizabeth Farrelly: The breathtaking irony of Philip Ruddock's UN human rights appointment

Sydney Morning Herald
February 10, 2016 - 9:00PM
Elizabeth Farrelly

I've heard of being kicked upstairs but this is ridiculous. I know people get promoted to their point of incompetence, but the UN? The Vatican? These are not incompetence-friendly situations.

I know that the sinecure, or cushy upstairs job, is a time-honoured tradition, but it shouldn't just protect the douchebag from the world. It should also protect the world from the douchebag.

To anoint Philip 'children overboard' Ruddock as our special envoy on human rights is an irony of breathtaking proportions. It's almost as bizarre as allowing George Pell's dicky heart to distance him from those whose hearts he helped break. In both cases, Australia looks weak, venal and mean.

As Howard's Immigration Minister, Ruddock designed and implemented the Pacific solution. Now, as our first-ever special envoy to the UN Human Rights Commission, he must persuade them it was a solution, not simply a tactic.

He must prove that practices that have made Australia an international human rights pariah – the “stop the boats” war cry, the indefinite incarceration of babies, rape victims and the terminally ill, the blanket secrecy – are not an outright disgrace.

Can it work? Is the UN really that gullible? Or do we, Australia, just not care that much? Is it simply domestic politics: with an election imminent Malcolm needs comfy Berowra for some numbers guy, and that’s the deal, done?

Speaking of carrots, I recall the footage from October 2001. I was making minestrone for my kids when the Immigration Minister declared that SIEV4 passengers had chucked theirs into the ocean for emotional leverage. I did a double take. Like, seriously?

Indeed, looking up, I nearly cut my fingers up for soup. But Ruddock’s face was grey and implacable as the sea those blurry figures flailed in. I squinted at the screen. Children? Were they? I couldn’t tell.

But I knew it smelt shonky then, four weeks from an election. And as it transpired, shonky was being nice. Now, with Ruddock’s preferment, the nicefication begins.

Suddenly he’s ‘Father of the House’, like some kindly old dad rather than 42 years of safe-seat fat-salary. Suddenly we hear of his early bleeding-heart years, his “lonely work” opposing racism in Parliament, the Amnesty badge he supposedly wears.

But anyone can wear a badge (and btw Amnesty politely asked Ruddock not to). It’s by their deeds ye shall know them.

Ruddock’s deeds date almost exclusively from his second 20 years in Parliament, from his sudden 1996 trade of principle for power to help puff Howard’s yeasty rise. His main deed, his main legacy, is the camps.

Last November, the UN’s Universal Periodic Review of human rights focused on Australia. 105 states spoke: 70 selected Australia’s camps for criticism. France, Germany, India, Mexico, Norway, Sweden, Italy, Argentina, Denmark and China were amongst those who voiced concern over Australia’s imprisonment of children, lack of protections, cancellation of the UN rapporteur’s visit, silencing of doctors and expulsion of charity workers.

Many worried that our detention policies were arbitrary. Arbitrary detention breaches the Universal Declaration of Human Rights (Article 9: “No-one shall be subjected to arbitrary arrest, detention or exile.”) So naturally, we denied it, huffing and puffing the usual stop-the-boats, end-people-smuggling cliches.

The pretence is that torture saves lives. But arbitrary detention is defined as imprisonment that (a) has no legal basis, (b) results from exercising legal freedoms or (c) makes no (or only partial) provision for fair trial.

Any one of these criteria makes the detention arbitrary. Our camps fulfil all three. No doubt Ruddock will deploy the same old bluster to pretend otherwise. But he shouldn’t have to.

Australia used to be good at this stuff; good as in moral, not just clever. Back in the 1940s we helped draft the UN Declaration on Human Rights. We’ve also signed the UN Convention Against Torture – of which the UN rapporteur found our camps are in breach – as well as conventions on discrimination against women, and on the Rights of the Child.

This last obliges us to make “the best interests of the child...a primary consideration” (Article 3). Yet we knowingly and repeatedly lock women and babies into these pits of human misery – filthy, sweltering, disease-ridden, abusive, privatised, secretive and, worst of all, indefinite in both cause and outcome.

We have mountains of testimony that this enduring and unfathomable trauma will wreck the children’s lives, yet we sanction it – then send the system’s architect to sell it to the world.

The Vatican itself could not invent an uglier strategy.

And so to Pell. I’m amazed how much understanding the system – both Church and state – affords the Cardinal, and how little they afford victims of his regime. I’m staggered how frail and forgetful these old bulls get when a profound moral issue needs their attention. I’m astonished how much denial, cruelty, perpetuation and victim-blaming a moral and spiritual leader can deliver and still seem a moral and spiritual leader.

The case in point relates to imprisoned priest Gerald Ridsdale, now 81, who abused and raped dozens of children – some as young as four – over several decades, possibly as far back as 1955.

In the 1970s Pell shared a house with Ridsdale and later, it is alleged, helped relocate him to other parishes. In one of Ridsdale’s schools, the commission has heard, 12 of a class of 33 have since, broken-hearted, killed themselves.

Given that the Royal Commission was initiated in response to a group of 14 of Ridsdale’s victims, and is briefed to scrutinise not just abuse but institutional responses to it, this case is pivotal.

Pell should be here. I'm sorry the Cardinal's heart is dodgy. I am. But looking back over his alleged victim-blaming and indifference, the allegations of silence-money and cover-ups, his efforts to avoid fronting up, Pell's heart seems to have been dicky for years. Ruddock's too, for that matter.

But I can't help thinking hearts that puny should see them sent to pasture. Running the Vatican, selling Australia's torture camps; these are not jobs for the fainthearted.

<http://www.smh.com.au/comment/ruddock-and-pell-promoted-to-their-level-of-malefeasance-20160210-gmq8n3.html>

8. Kevin Rudd's brutal slapdown of Australians who don't think we have a racism problem

Sydney Morning Herald
February 12, 2016 - 11:36AM
Leesha McKenny

Former prime minister Kevin Rudd says it is "100 per cent bullshit" that the booing of ex-Sydney Swans star Adam Goodes had nothing to do with his Aboriginality, in a speech that called on Australians to name and shame racism.

Speaking on the eighth anniversary of his apology to the stolen generations, Mr Rudd said that he was perhaps naive when he said five years ago that he did not believe that racism was at work in Australia.

"Perhaps [I was] just wishing that the better angels of our nature had begun to prevail in a newly reconciled Australia," he said.

"Or perhaps I was just plain wrong."

But at a breakfast gathering of Indigenous and political leaders at the NSW Parliament on Friday, Mr Rudd cited examples of what an Indigenous friend had recently described as the "low, steady hum of racism" in Australia.

These included stories of a black, but not Indigenous, Australian who left a job because "he just couldn't put up with it any more, being called a 'monkey' by one of his co-workers", and an elderly Aboriginal couple who were refused service in a country cafe.

"To me this story sounded more like one from the Birmingham, Alabama, of the 1960s rather than regional Australia half a century later," he said.

Mr Rudd said that, when he spoke out last year about the treatment of Goodes, "People screamed back that it wasn't because Adam was Aboriginal. It was just that they disliked his behaviour as a footballer.

"I'm not exactly a connoisseur of the finer points of the game," Mr Rudd continued. "But I think the claim that this was to do with Adam Goodes as a sportsman and not to do with his Aboriginal identity, I think that claim is 100 per cent bullshit."

Mr Rudd said there was another side to Australia, as experienced by many in the community, that is "more confronting than we white folks are ready for".

"I don't believe this racism represents the mainstream of our society," he said.

"But it would be wrong to conclude that we don't have a problem."

Even if it is expressed by a small minority, racist words "still carry a great weight, because they are powered by the force of history".

"It's like a cancer that eats away at the fabric of our society - the fabric that binds us together as a wider Australian family," he said.

"The next time any of us see or hear racist behaviour, don't be silent. Call it out for what it is. Name it. Shame it. For racism in any form has no place in the Australia of the 21st century."

Mr Rudd also remarked on the latest Closing the Gap report, noting that, although the findings were "once again mixed", a report card based on objective data was better than the situation previously, where there had been none at all.

"Without data, while acknowledging its limitations, we would be left in a world of subjective pain, forever tilting at windmills, however nobly, or ignobly," he said.

"We cannot afford to exhibit any form of national 'learned helplessness' on whether we can in fact close the gap. The truth is we can."

He also used the address to highlight areas of Indigenous achievement, including Ken Wyatt and Nova Peris in Federal Parliament, "and I hope, folks, [Indigenous journalist] Stan Grant soon to join them".

Grant, who last month delivered an impassioned speech on racism, told Fairfax Media on Friday he was still considering a future in politics.

"I'm definitely giving it a lot of thought, but haven't really decided yet one way or the other," he said.

<http://www.smh.com.au/federal-politics/political-news/bullshit-kevin-rudds-brutal-slapdown-of-australians-who-dont-think-we-have-a-racism-problem-20160211-gms4bn.html>

9. "I'm so scared of making them angry" - why we don't show their faces

The Age
February 9, 2016
Jason Dowling

Showing the faces of children that could be sent to Nauru would not break Australian law, but would not be in the best interest of the children, the Human Rights Law Centre says.

Premier Daniel Andrews has posted a picture of himself with the backs of two children on social media with the explanation "I can't show you their faces, but I can tell you a bit about these two beautiful kids who I took to the Melbourne Zoo."

"They're ordinary Victorians in almost every way. They go to their local primary school; they laugh, they learn, they play. But one thing is very different: any day now, these two boys will be deported to Nauru and will stay there indefinitely," Mr Andrews posted.

A spokeswoman for the Premier said the children were not identified to protect their safety in the event they were forced to return to Nauru.

The Human Rights Law Centre strongly advised against publishing identifying images of the children because of the impact that identification could have on their overseas relatives and on how they are treated by Australian authorities.

"They're worried that speaking out might endanger relatives in their home countries or be used against them when their refugee claims are assessed. Mostly, they are afraid our government will punish them. As one father put it to me last week, "right now my child's life is in the government's hands. I'm so scared of making them angry," Daniel Webb, from the Human Rights Law Centre said.

There are 267 asylum seekers, including 37 babies and 54 other children, who face being sent to Nauru after the High Court recently rejected a challenge to Australia's offshore processing regime in Nauru.

Legal advice obtained by Fairfax Media indicates that there is no legal impediment to publishing the faces of children that could be sent to Nauru if the photograph was not obtained by a Commonwealth official owing to their position and provided by that official without authority.

The consent of the children's parents should also be sought.

Lawyer Andrew Cusumano, from MinterEllison, said prohibited personal information under the Migration Act relates to specific identifiers used as part of the migration process "not any personal identifier", including any photograph.

<http://www.theage.com.au/victoria/im-so-scared-of-making-them-angry--why-we-dont-show-their-faces-20160209-gmp9w6.html>

10. Tim Wilson to quit \$400,000 'Freedom Commissioner' job to launch run for Parliament

The Age
February 15, 2016 - 8:13AM
Adam Gartrell

Tim Wilson is giving up his \$400,000 Human Rights Commission job after officially launching his bid to enter Parliament.

Mr Wilson has publicly confirmed he is seeking Liberal pre-selection in Andrew Robb's safe Melbourne seat of Goldstein.

He will resign as Human Rights Commissioner later this week, just two years into his five-year term.

"This is a tough decision for me but the right one. The people of Goldstein deserve someone who will fight for them," he said in a statement.

"This is not a time to be timid. It's a time to be bold.

"Our country faces big challenges: debts and deficits, high taxes and youth unemployment to name a few."

Outspoken and divisive, Mr Wilson was controversially appointed to the commission by the Abbott government in 2013. He was previously a policy director for the right-wing Institute of Public Affairs think tank.

Philosophically committed to freedom of speech and personal liberty, the 35-year old was dubbed the Freedom Commissioner - "a title I have held with pride".

"It has been an honour to serve in this role," he said. "I am a better and more experienced person for it."

If Mr Wilson wins pre-selection he is all but guaranteed a seat in Parliament because Goldstein is a safe Liberal seat.

But he has a fight on his hands to become the candidate. Georgina Downer - the daughter of former foreign minister Alexander Downer - is also considered a frontrunner for the spot and has the support of Mr Robb.

Local software developer Marcus Bastiaan is also likely to enter the race and is understood to have strong support across the electorate's Liberal branches.

While Mr Wilson does not live in the electorate he has strong ties to the area. Ms Downer, a lawyer turned diplomat, also lives outside the electorate.

Mr Robb surprised colleagues when he announced his retirement last week. He will stay on as a special trade envoy until the election, after which he intends to return to the private sector.

He holds Goldstein with a margin of 11 per cent.

<http://www.theage.com.au/federal-politics/political-news/tim-wilson-to-quit-400000-freedom-commissioner-job-to-launch-run-for-parliament-20160214-gmtzxp.html>

11. Essential Report: Babies of asylum seekers have stirred our conscience

ABC The Drum

By Peter Lewis

Posted Wed 17 Feb 2016, 4:09am

For the first time in several years our polls are showing a softening in the hardline stance voters have on asylum seekers, writes Peter Lewis.

The ethical showdown over the status of the babies of asylum seekers who are born in Australia risks breathing life into our national conscience.

With state premiers backing medical professionals in refusing to send these children back, this week's Essential Report shows a majority of the public supporting calls to let the babies - and by implication their parents - stay in Australia.

Yes it's a narrow majority and not an absolute one, but it is the first softening of our hardline stance on asylum seekers that Essential has picked up in several years.

Full story at <http://www.abc.net.au/news/2016-02-17/lewis-babies-of-asylum-seekers-have-stirred-our-conscience/7175138>

12. Behrouz Bouchani: This is Manus Island. My prison. My torture. My humiliation

Iranian Kurdish journalist Behrouz Bouchani writes from Manus Island, where he has been held for 28 months, experiencing 'profound and annihilating mental torture'

The Guardian

Behrouz Bouchani

Thursday 18 February 2016 18.12 EST

Twenty-eight months ago, with a shattered body which was ravenously hungry and deeply wounded, with bare feet and exhausted soul, I made the trip to the soil of free territory, to Australia. It was four days after the announcing the 19th of July law. Because of the law, I was exiled to Manus Island in Papua New Guinea, in the heart of the Pacific Ocean; and according to this law, it has been 28 months that I am being under pressure and being tortured.

The 19th of July law enforced the transfer of people who arrive by boat and seek asylum to the offshore detentions. It is noteworthy to mention that this law started to be exercised when our broken boat with 65 unconscious passengers was lost over the ocean. When we reached the soil of Australia, we found out about this cruelty.

Whatever it was, number 19 remains so ominous to me and thousands of people seeking asylum, as after many months, this number still tortures our mind and soul with such an extreme cruelty. And like a sledge hammer, it perpetually descends into our soul and mind. The threat of being resettled on the island, which is devoid of security, causes a severe and ongoing mental pressure in the camp.

Everyday the immigration officers remind us of the presence of this sledge hammer over our head in different ways. They come to the prison every week and announce that we will be resettled on the island very soon. There are short films and classes are held in relation to the PNG local culture and language – various methods and tricks are used in order to maintain the severe mental pressure, yet no one yet has been resettled on the island.

The main policy here on Manus is to put asylum seekers in a time tunnel. In other words, none of the asylum seekers are aware of the stage of their own application and others'. They have no idea about the period of time they would be kept in the detention and what future is waiting for them. They do not even know which country or city they would live after getting released.

Full story at <http://www.theguardian.com/commentisfree/2016/feb/19/this-is-manus-island-my-prison-my-torture-my-humiliation>

13. Refugee left homeless in Papua New Guinea after being resettled from Australian-run detention

Exclusive: Loghman Sawari, a former Manus detainee, says he ended up destitute in the city of Lae before being given work and a bed by a local church

The Guardian
Ben Doherty
Thursday 18 February 2016 14.23 EST

One of the first refugees “resettled” in Papua New Guinea after leaving Australian-run detention ended up destitute on the streets of Lae before being taken in and given work and accommodation by a local church.

Loghman Sawari, who fled persecution in Iran and was just 17 when he was sent from Australia to the adult men-only Manus Island detention centre in 2013, is one of the first group of six recognised refugees released from detention on Manus and moved to Lae, PNG’s second-largest city.

Sawari, who is now 20, was initially placed in a labouring job with a building company, but after a dispute over pay and an altercation with a housemate he says was motivated by his refugee status, he fled and ended up sleeping rough on the streets of the city.

Lae is riven by particularly high rates of violent crime, according to Australian Department of Foreign Affairs and Trade travel warnings. Assaults using machetes and firearms are common and “it is dangerous to walk the streets, particularly after dark”, according to the Australian government.

Sawari ended up sleeping outside the local police station, where he was found by a group of “street boys”, the local term for young men who roam the city at night, generally committing crime.

The “boys” took him to the local church, where they sometimes sleep, and from there Sawari was given assistance by Bob Butler, the chief financial officer of the Seventh Day Adventist church.

Butler told Guardian Australia that Sawari was now living under his care.

“For the moment, he is OK,” he said. “For the next couple of months he is safe and secure. I have given him a place to live, and a job. After that, it will be up to him what he makes of his situation. But, after some difficulties, he seems to have a good attitude now.”

Butler said Sawari – like many refugees who’ve been displaced for several years – had had an interrupted education and no skills that placed him in demand for employers.

“If you have a skill, or you are entrepreneurial, there are opportunities in PNG. But if you are unskilled, then the pay is very low. Loghman’s problem is that he can’t earn enough money to afford a place for him that is safe.”

Butler is helping Sawari with his health, encouraging him to go jogging and to lift weights. He has also been helping Sawari improve his reading, providing him with books.

“I told him pretty bluntly: the next few years are going to be very tough. Either you make something of your life and things could be good, or they could be really bad. There is no safety net, no support in PNG. If you can’t earn, you have nothing.”

Sawari told Guardian Australia he felt he was being exploited in the job organised for him by PNG immigration. He said he was being paid 290 kina – about A\$130 – a fortnight, while other workers who were not refugees were paid more.

He said he had been told one year of medical care would be part of his resettlement assistance but his pay was docked for medical expenses when he was in hospital.

Sawari says his housemates – migrant workers but not refugees – “laughed at me because I am refugee”, and told him he was being underpaid because he was a refugee. He said he had a fight with one housemate over cooking in their shared accommodation.

“I had to leave, I could not stay [in] that place.”

Sawari said he feared he would be attacked on the streets, and refused to leave the surrounds of the police station, until he was told by the street boys that the church might be able to help him.

“I told [PNG] immigration I want to go back to Manus, but they said I cannot,” he said. “Manus is 100% better than this place. Here, I am more frightened. Lae is very dangerous.”

“How can I live here? It is a very bad life. I worry about my future. I cannot go back. I cannot stay here. What will happen?”

Sawari is now working cleaning houses and has accommodation provided by Butler.

Guardian Australia has not received a reply to requests for comment from PNG immigration. But Guardian Australia understands it is aware of Sawari’s situation and is seeking to make contact with him to offer assistance.

Sawari, and five other refugees, are the first people sent from the Australian-run detention camp on Manus out into the PNG community. A total of 863 remain inside the detention centre at the Lombrum army base and 53 are in the refugee transit centre in Lorengau.

Guardian Australia first met Sawari on Manus Island in August last year when he was being housed in the refugee transit centre.

He described how he was 17 when he arrived in Australia by boat before being erroneously sent to the adult men-only Manus detention centre.

The mistake, and the danger he was in, was realised (he had a photocopy of his passport with his birthdate), but he was not removed from Manus. Instead he was locked in a 20 square-metre isolation room with another child and not allowed to leave.

“I leave my country, because I come to freedom. But here is the same. I am caged like an animal,” he said, describing his detention.

In Iran, Sawari’s cousin was executed by his government and, after his two brothers were also imprisoned and tortured by the regime, Sawari’s father urged him to flee the country.

Sawari told Guardian Australia that more than two years on, he felt he was still running, still seeking safety. “I don’t want money. I don’t want go [to] Australia. I want to go for a country for freedom. Freedom, only freedom. I need only freedom.”

He says he was assaulted by a security guard inside detention on Manus after a dispute over washing powder.

“He came up to me and said, ‘If you don’t think it’s enough, go back to your country. If you don’t like it here, go back.’”

“I said to him, ‘This is none of your business.’ Then he punched me. He punched me hard. I cry, and I fall down. I fall to the ground.”

<http://www.theguardian.com/world/2016/feb/19/refugee-left-homeless-in-papua-new-guinea-after-being-resettled-from-australian-run-detention>

14. Asylum seeker pair leaves Nauru 'black hole' to be reunited with family in Canada

ABC News Online

By Jessica Longbottom

First posted Sun 21 Feb 2016, 10:32am

Updated Sun 21 Feb 2016, 12:28pm

Two asylum seekers who spent three years living on Nauru have been resettled in Canada, in what is believed to be a first for boat arrivals sent to the Pacific.

Syrian man Ali Kharsa, 18, and his father Ahmed, 47, are understood to be the only refugees on either Nauru or Manus Island to be given permanent protection by a western country.

They left the Pacific country in November after a year of legal wrangling.

Their relocation was made possible under a family reunification visa after Ali's mother, Doha, was accepted as a refugee by Canada.

"When I stepped off the plane, I saw my Mum and I saw some Canadian people," Ali told the ABC.

"I didn't even know them but they were crying and they hugged me and they said 'You know what? You are welcome here. You are welcome to Canada'."

"I don't believe I'm here in [Canada]. Nauru is a black hole. You never get out.

"I don't know how I escaped from there, I really can't believe it."

Up until now, boat arrivals to Australia who have been placed in offshore detention on Manus Island and Nauru and have then been declared refugees, have only had the option of resettling in those Pacific nations or Cambodia.

Ali and his father now live with Doha and his five siblings in the prairie city of Saskatoon.

He plans to record a rap album about his experiences and is attending a local high school.

"I really feel myself at home. I feel Canada is my country... I'm going to study here and continue my life with my family here," he said.

"I just feel happy and relief.

"Canada is a bright future for me."

No future on Nauru: 'It's really bad'

Ali and his family left their home in Aleppo, Syria in April 2012 after Ali's father was threatened by the government for sheltering a family in hiding.

They made their way to Malaysia and applied for refugee status through the United Nations.

However, frustrated with being unable to work legally, Ali and his father decided to leave the rest of the family in Kuala Lumpur and try and make it to Australia.

They paid a people smuggler and caught a boat to Christmas Island.

They were transferred to Nauru detention camp in November 2012.

"It was a really hard situation over there. Sometimes I still remember what I've been through. I still remember the camp, I remember the tents... it's really bad," Ali said.

"We didn't know if they were ever going to release us."

Ali and his father were recognised as refugees by Nauru in October 2014 and then moved into a shipping container away from the main camp.

They were given \$200 a fortnight allowance, which he said was only enough to cover food, due to high costs on the island.

Ahmed Kharsa developed depression during this time.

He was heavily medicated and unable to emotionally support his son.

"They say Australia is a free country and a country of the people... so why are they imprisoning people like animals?" he asked.

"They used to call us with our boat numbers, not with our names. It's inhumane."

Ali said he and his father picked up work as security guards when they could to earn extra money.

But he said discrimination against refugees was common.

It was like a 'miracle' when they arrived

While Ali and his father were on Nauru, Doha Kharsa, 36, and her five children were granted permanent protection by Canada.

They arrived in November 2014 and Doha sought the help of local NGOs to help reunite the family through a special family visa.

She said she kept the rest of her children going by saying their father and older brother were working in another place and getting the family money.

When her husband and son made it to Canada, it felt like a miracle.

"There are no words to describe that feeling and that moment," she said.

"Take everything as a gift in your life. Any small thing is a gift cause you don't know when you're going to lose what's precious in your life."

Loophole may not work for all

Ali now wants to study to be a human rights lawyer and help others on Nauru.

"I feel sad and I always contact them and talk to them," he said.

"They always ask me about Canada. I say 'man, I wish you could be here with me now'."

Although Ali and his father were able to escape Nauru, their case seems to be an exception to the rule, said Daniel Webb from the Human Rights Law Centre.

"I'm sure the fact a couple of individuals have been spared a life in limbo will give others hope," he said.

"The reality though is they remain on a long road to nowhere."

<http://www.abc.net.au/news/2016-02-21/asylum-seekers-leave-nauru-for-life-in-canada/7187416>

15. Brisbane's Lady Cilento Children's Hospital refuses to release badly burnt Nauru baby

ABC News Online

By Francis Tapim

First posted Fri 12 Feb 2016, 8:19pm

Updated Sat 13 Feb 2016, 10:52am

Doctors at a Brisbane hospital have refused to release a one-year-old girl, badly burnt on Nauru, until a "suitable home environment is identified".

The girl was injured when boiling water was accidentally spilt inside the tent she was living in with her parents.

She was flown to Brisbane and admitted to Lady Cilento Children's Hospital.

In a statement on Friday, a hospital spokesman said the baby would not be discharged until a "suitable home environment is identified, as is the case with every child who presents at hospital".

"All decisions relating to a patient's treatment and discharge are made by qualified clinical staff, based on a thorough assessment of the individual patient's clinical condition and circumstances, and with the goal of delivering the best outcome," the statement read.

It is understood the baby's injuries are healing well and her condition is now listed as stable.

The girl's parents are both in Brisbane and have been visiting her daily.

Refugee Action Collective's Mark Gillespie said they were terrified at the prospect of being returned to Nauru.

"Both of them they don't want to go back," Mr Gillespie said.

"They're fearful for their baby and the conditions that they face. It's just horrible for them and they're resolute that they don't want to go back. It's just terrible for them."

Hospital protest to keep burnt baby in Australia to continue

About 50 protesters gathered outside the hospital on Friday night and this morning to support the hospital's decision — some held signs calling for the closure of detention centres on Manus and Nauru.

"We are gathered here tonight in support of the young girl who is inside the hospital and her family," protest spokeswoman Ellen Roberts said.

"We also ... support the doctors who have taken a very brave stance in refusing to release her."

Ros McLennan from the Queensland Council of Unions said protesters would continue to support hospital staff for as long as it takes.

"It's absolutely disgraceful that the Federal Government can even be contemplating removing a sick little kid from a hospital situation in Brisbane to detention in Nauru," she said.

"I absolutely commend the doctors, nurses and hospital staff for putting the child's best interests above the ideological desires of the Federal Government."

Greens Immigration spokeswoman Senator Sarah Hanson-Young said she had "huge admiration for these doctors and nurses who are doing the right thing and refusing to release her".

"All strength to the medical professionals at the Brisbane hospital for acting in the best interests of this child," she said.

"The doctors know that discharging this baby would send her and her family straight to the dangers of indefinite detention on Nauru.

"It's time Malcolm Turnbull listened to the medical experts and realised that there is no government policy that can justify the abuse of children.

"The Turnbull Government needs a Nauru exit strategy, before more children are permanently harmed."

Immigration Minister Peter Dutton's office declined to comment on the matter.

<http://www.abc.net.au/news/2016-02-12/brisbane-hospital-refuses-to-release-nauru-baby/7165470>

16. Hospital refuses to discharge asylum seeker toddler to prevent return to Nauru

Sydney Morning Herald
February 13, 2016
Nicole Hasham
with Amy Mitchell-Whittington

A Brisbane hospital is refusing to discharge an asylum seeker toddler who has been recovering from burns, in a bid to prevent the Turnbull government from returning her to immigration detention at Nauru.

In a statement, a spokesperson from Lady Cilento Children's Hospital said it was treating a 12-month-old girl from Nauru who "will only be discharged once a suitable home environment is identified", as was the case with every child who presented at the hospital.

"All decisions relating to a patient's treatment and discharge are made by qualified clinical staff, based on a thorough assessment of the individual patient's clinical condition and circumstances, and with the goal of delivering the best outcome," the spokesperson said.

Getup human rights director Shen Narayanasamy said the child's mother "feels safer now that the doctors are trying to protect her child from the clearly abusive conditions Asha [a pseudonym] faces upon return to detention".

However a high-level official source indicated the child and her parents were not facing imminent return to Nauru.

The Department of Immigration and Border Protection's chief medical officer Dr John Brayley this week told a Senate estimates hearing that keeping children in detention has a "deleterious" effect on their mental health.

The department's chief Michael Pezzullo also told the hearing that bureaucrats, not doctors, had the final say on deciding whether to send asylum seekers to offshore detention.

The child has been recovering from accidental burns injuries sustained at Nauru.

Ms Narayanasamy said the Australian Border Force has "overruled decisions of medical experts in the past, so the family remains very scared they will be secretly snatched from the hospital and returned to detention this weekend".

It is understood the department, not the ABF, would make a decision on the child's future once they are discharged from hospital.

The hospital's decision follows offers from state premiers to take in a group of 267 asylum seekers presently in Australia who are awaiting return to Nauru.

Ms Narayanasamy said the hospital's stance "sends a loud message to the government that child abuse is unjustifiable, under any circumstances".

Darwin Asylum Seeker Support and Advocacy Network advocacy coordinator Natasha Blucher, who is assisting the family, said the mother was "terrified" and the family's situation was tenuous.

"All this mother wants is for her baby to be safe, and unfortunately at the moment nobody can promise her that," she said.

"[The mother] said that after the way the family has been treated in the past, every time the door opens in their room, her heart starts racing and she becomes terrified."

Late Friday night protesters from the Refugee Action Coalition Queensland demonstrated outside the hospital to show support for the decision to keep the child in Australia.

The Department of Immigration and Border Protection, which includes the Australian Border Force, has been contacted for comment.

<http://www.smh.com.au/national/nauru-baby-being-kept-by-brisbane-hospital-20160212-gmt3dg.html>

17. Doctors refuse to discharge 'Baby Asha' because of fears for safety on Nauru

One-year-old daughter of asylum seeker parents held in detention has been receiving treatment for burns at a hospital in Brisbane

The Guardian
Ben Doherty
Friday 12 February 2016 06.10 EST

A Brisbane hospital is refusing to discharge a one-year-old baby facing imminent removal to Nauru, because doctors believe the island's detention centre is not safe.

The child, known by the pseudonym of "Baby Asha", was first removed from Australia, where she was born to asylum-seeker parents, to Nauru in June last year at just five months old, in defiance of a warning to government the move would be "potentially catastrophic".

Now 12 months old, Asha is back in Australia. She has been in Brisbane for several weeks receiving treatment for burns at the Lady Cilento hospital.

It is understood she was burned when boiling water was accidentally spilled on her.

The nature of her injuries meant she could not be treated on Nauru. Her injuries have been treated, but doctors are refusing to discharge her because they regard the environment on Nauru to be unsafe for her.

A spokesperson for the hospital confirmed a 12-month-old girl from the Nauru detention centre was currently receiving treatment.

“As is the case with every child who presents at the hospital, this patient will only be discharged once a suitable home environment is identified.

“All decisions relating to a patient’s treatment and discharge are made by qualified clinical staff, based on a thorough assessment of the individual, delivering the best outcome.”

In June, Guardian Australia revealed that Baby Asha, then five months old, had been removed to Nauru, 4,500km from the Australian mainland, in defiance of advice to the government from Save the Children that the move would be “potentially catastrophic”.

The area of the detention centre to which she was to be sent, Area 9 of RPC3, had been infested with rats, and the tents leaked. The immigration department disputed the assessment and opted to rely on a Transfield risk assessment that outlined a slightly lower level of risk.

Asha was removed to Nauru in early June. She developed gastroenteritis within a week.

Her mother’s breastmilk also failed because of stress, and Asha could not tolerate the formula she was given.

Around 540 asylum seekers are held in the Nauru detention centre, run by Transfield Services on behalf of the Australian government. The Nauru detention centre has been significantly upgraded since last June. Facilities have been improved and the centre is now “open”, with asylum seekers able to move around the island.

Shen Narayanasamy, human rights director for the campaign group Getup!, said while she applauded the hospital’s decision, the family of Baby Asha was still concerned for their future.

“The mother feels safer now that the doctors are trying to protect her child from the clearly abusive conditions Asha faces upon return to detention. But Border Force has overruled decisions of medical experts in the past, so the family remains very scared they will be secretly snatched from the hospital and returned to detention.

“This hospital joins churches and state premiers in pressuring the federal government to just let them stay. The hospital’s serious decision not to discharge Baby Asha to harm sends a loud message to the government that child abuse is unjustifiable, under any circumstances.”

A former Save the Children worker on Nauru said: “This mother is terrified and the family’s situation is extremely tenuous.”

Natasha Blucher, now advocacy co-ordinator with the Darwin Asylum Seeker Support and Advocacy Network, said she had had to explain to Asha’s mother that nothing could be done to stop department or security officials from removing her from the hospital to Nauru.

“I was present on the phone for a discussion in which hospital staff explained to her that no steps are being taken to discharge her baby from the hospital because they believe she does not have a safe home to go to, but the fact remains that they would be unable to prevent her removal if the department sought to do that by force.

“All this mother wants is for her baby to be safe, and unfortunately at the moment nobody can promise her that.”

Guardian Australia sought comment from the department of immigration, and the office of minister Peter Dutton, on Friday night.

Previously, the minister has said he was “not going to send children back into harm’s way”.

But he has said the government must remain resolute over its policies of offshore processing and regional resettlement for “illegal maritime arrivals” in order to deter people-smuggling. Baby Asha is classified as an “illegal maritime arrival”, despite being born in Australia, because of the immigration status of her parents.

At senate estimates this week, immigration department secretary Mike Pezzullo said the medical opinions of doctors would always be taken into account in making assessments of whether children would be removed from Australia, but that medical professionals working in the department would provide final advice to him on removals.

“My job is to ensure – and I am not medically qualified – that I have people who work for me who directly understand the policy and the overall parameters in which we are operating, who can then advise me, clinically, to say, ‘I have looked at this. On balance, the appropriate care can be provided on Nauru. They are going back.’”

Baby Asha is not directly connected to the just-concluded M68 High Court case. Those 267 asylum seekers have a government undertaking they will be given 72 hours' notice before they are moved. Baby Asha does not have this undertaking.

<http://www.theguardian.com/australia-news/2016/feb/12/doctors-refuse-to-discharge-baby-asha-because-of-fears-for-safety-on-nauru>

18. MEDIA RELEASE: #LetThemStay vigil for baby Asha at Cilento Hospital and Brisbane protest

Saturday February 13, 2016
Refugee Action Coalition
Ian Rintoul
mobile 0417 275 713

Around 30 people have already gathered at the gates of Lady Cilento Hospital as word spread of the action of hospital staff refusing to release baby Asha who was medivacced to Australia after suffering burns in an accident on Nauru. (Photo attached.)

A member of the hospital staff is expected to address the solidarity vigil soon.

Baby Asha was brought to Australia on 27 January just a few days before the High Court decision that ruled that detention on Nauru is lawful. The baby and her parents are now at risk of being returned to Nauru.

More people are expected to gather through the night in support of the stand taken by the hospital staff.

The Refugee Action Collective has called a solidarity protest with the staff for 12,00 midday, Saturday 13 February, Lady Cilento Hospital, Raymond Terrace, off Stanley St, South Brisbane. Close to Mater Hill bus station.

Staff have indicated that the baby will not be discharged until a 'suitable home can be identified for her'.

"The action by the hospital staff is a great step forward. Hospital workers have recognised that Nauru is not a safe or suitable environment for children," said Ian Rintoul for the Refugee Action Coalition

For more information Ian Rintoul 0417 275 713

For information about the Brisbane solidarity protest on Saturday contact Mark Gillespie 0439 561 196

19. 'Baby Asha' and Nauru protests held as hospital staff oppose transfer

Protesters place 267 paper dolls outside Peter Dutton's Brisbane office – one for each asylum seeker of the M68 cohort facing removal

The Guardian
Ben Doherty
Saturday 13 February 2016 00.00 EST

Protests over the proposed return of "Baby Asha" to Nauru, the fate of 267 asylum seekers also facing removal, and Australia's offshore processing regime in general, continued across the country on Saturday.

Refugee advocates gathered outside Lady Cilento Children's Hospital in Brisbane, where doctors have refused to discharge Asha because they do not believe Nauru will be a safe environment for her.

Meanwhile, the NSW conference of the Australian Labor party – which supports offshore processing – was picketed by demonstrators outside Sydney Town Hall.

And protesters placed 267 numbered paper dolls on the grass outside the north Brisbane office of the immigration minister, Peter Dutton, – one for each asylum seeker of the M68 cohort facing transfer to Nauru.

Included in the protest were 37 replica baby "onesies", representing the 37 Australian-born children also facing removal.

The Guardian reported on Friday night that Asha – the Australian-born daughter of two asylum-seeker parents, who had first been taken to Nauru when five months old, faced a return there again, after receiving treatment for burns at the Lady Cilento Children's Hospital.

Asha was accidentally burned on Nauru when boiling water spilled on her.

She has been treated but hospital staff have refused to discharge her because they say Nauru is not a “suitable home environment”.

“As is the case with every child who presents at the hospital, this patient will only be discharged once a suitable home environment is identified,” the hospital said.

“All decisions relating to a patient’s treatment and discharge are made by qualified clinical staff, based on a thorough assessment of the individual, delivering the best outcome.”

The Nauru detention centre has been the site of consistent reports of abuse of asylum seekers, including physical and sexual assaults.

Asha’s first transfer to Nauru in June last year resulted in her contracting gastroenteritis and suffering nutrition problems because her mother’s breastmilk failed. Before that, the government had been warned by Save the Children that the move could be “potentially catastrophic”.

The detention centre has been significantly upgraded since June last year, and has transitioned to an “open” centre.

Protesters have staged a vigil for Asha outside the Lady Cilento Children’s Hospital since Friday night.

Addressing them on Saturday, Dr Richard Kidd of Doctors For Refugees said his organisation “absolutely supported” the stand of the hospital’s doctors.

He told Guardian Australia the immigration detention system was systemically flawed and “set up to harm people”, and that there had been consistent reports of children self-harming in detention.

“The evidence is incontrovertible that detention is terribly harmful for these children.”

Kidd said doctors were ethically bound, by their registration and their Hippocratic oath to “do no harm” and to ensure patients were not returned to dangerous situations.

“Doctors and nurses know that they cannot send a child back to a place where they face harm.”

Guardian Australia approached the department of immigration, as well as the office of Dutton, for comment on Friday night, and again on Saturday. There has been no response to questions.

Previously, Dutton has said he was “not going to send children back into harm’s way”.

But he has said the government must remain resolute over its policies regarding offshore processing and regional resettlement for “illegal maritime arrivals” in order to deter people-smuggling. Asha is classified as an “illegal maritime arrival”, despite being born in Australia, because of the immigration status of her parents.

The Greens senator Sarah Hanson-Young, a long-standing opponent of offshore processing, said she admired the doctors’ defiance of the government’s plans to remove Asha, which she described as “cruel madness”.

“All strength to the medical professionals at the Brisbane hospital for acting in the best interests of this child.

“The doctors know that discharging this baby would send her and her family straight to the dangers of indefinite detention on Nauru.”

<http://www.theguardian.com/australia-news/2016/feb/13/baby-asha-and-nauru-protests-held-as-hospital-staff-oppose-transfer>

20. Protesters with Let Them Stay banner hang over Melbourne freeway

Two women abseil from bridge and unfurl banner as backlash grows against government’s plans to relocate 267 asylum seekers from Australia to Nauru

The Guardian
Ben Doherty
Wednesday 10 February 2016 17.52 EST

The Let Them Stay campaign to keep 267 asylum seekers facing removal to Nauru in Australia continued on Thursday morning with a peaceful protest above a Melbourne freeway that lasted three hours.

Protesters abseiled from the Yarra Bend Bridge over the Eastern Freeway, unfurling a banner reading #LetThemStay.

Police attended but the two female protesters refused to leave.

Protester Hannah Patchett, 22, posted on Facebook: “It’s outrageous that we even have to protest torture against children. We’re calling on the Australian government to uphold their obligations to international human rights conventions.”

Police officers and a search and rescue response unit were deployed to the scene, before the women ended the protest, abseiling to the ground just before 11am.

Meanwhile, 100 of Australia’s most prominent comedians have also penned an open letter published by BuzzFeed to the prime minister and immigration minister appealing for the 267 to be allowed to stay.

The letter, from “professional dickheads” and addressed to “Rich White Men Who Are In Charge Of Things” reads: “To us, the idea of deporting vulnerable people seeking asylum to Nauru to face the very things they sought protection from is a really, really bad joke. Like, no good. At all. We understand that the recent decision by the high court technically makes this sort of thing legal, but that doesn’t mean it’s worth pursuing. Other things that are legal include smoking and wearing Crocs.”

The #LetThemStay slogan has become the rallying cry to keep 267 asylum seekers in Australia. Most of the group have been brought to Australia from Nauru for their own, or a family member’s, medical treatment.

But the group also includes 37 babies born in Australia, as well as 54 children, more than 30 of whom are now attending Australian schools.

A high court decision last week – in a case known as M68 – upheld the government’s constitutional right to establish, fund and run immigration detention centres in foreign countries. That ruling cleared the way for the government to remove the 267 to Nauru.

Under Australian migration law, the babies, despite being born in Australia and having never left the country, are categorised as “illegal maritime arrivals” because of their parents’ migration status.

But their removal, in particular, has galvanised significant public opposition.

Thousands have attended protests across the country, while 10 Anglican and Uniting church leaders have defied the government, invoking ancient right of sanctuary in offering their churches as refuges for those facing removal to Nauru.

Doctors and detention centre workers, who risk two years in jail for speaking out about conditions in the camps, have spoken at public events and in media interviews, arguing that conditions in offshore detention amount to torture.

And five of six state premiers have pledged their states’ support for the position of Victoria’s Daniel Andrews, who wrote to the prime minister urging him not to remove the asylum seekers and offering to find homes for the 267 in his state.

Australia’s two offshore detention centres – in remote Nauru and the Papua New Guinean island of Manus – have been the site of consistent reports of violence against asylum seekers, including the sexual assault of children, and the rape of men and women in detention, as well as other abuses such as detainees being given out-of-date food and expired medication.

Two men have died in offshore detention: one beaten to death in a riot and another after his removal to hospital with an infected leg wound was delayed.

Paediatricians have reported children as young as seven attempting suicide in Australian-run detention centres, and one father on Nauru reported his two-year-old boy played with cockroaches in detention “because he has no other toys”.

But the prime minister, Malcolm Turnbull, and the immigration minister, Peter Dutton, have said the offshore processing policy removes the motivation for people to risk dangerous boat voyages to Australia, and robs people smugglers of a product to sell to people seeking asylum.

“Anything we do which gives them a marketing opportunity they will use and they will use it to get more vulnerable people on boats and more children and their parents will die by drowning at sea,” Turnbull said.

Dutton has vowed the government was “not going to send children back into harm’s way”.

<http://www.theguardian.com/australia-news/2016/feb/11/protesters-with-let-them-stay-banner-hang-over-melbourne-freeway>

21. Comedians Are Totally Not Laughing About Sending Babies To Nauru

“Trust us, Prime Minister Turnbull and Minister Dutton – there’s nothing funny about this shemozzle.”

Feb. 10, 2016, 10:22am

Mark Di Stefano

BuzzFeed Political Editor Australia

A hundred of the country's most famous comedians have come together to pen a scathing letter calling on the prime minister to let 37 asylum seeker babies stay in Australia.

BuzzFeed News has been sent the letter from the self-professed "professional dickheads", after the Australian government said it would start sending back child asylum seekers to Nauru.

It reads...

"Dear Rich White Men Who Are In Charge Of Things,

We the undersigned are professional dickheads. Between us, we have decades of experience in getting away with making people laugh and acting like it's a respectable living. We say swears and we talk about genitals and farts and Facebook and first world problems and we wear silly costumes and..."

Full story at <http://www.buzzfeed.com/markdistefano/ha-ha-oh-god-nauru>

22. 'Let them stay': backlash in Australia against plans to send asylum seekers to detention camps

Government wins court challenge to its offshore policy, but protests mount at move to send 267 people – including 37 babies – to Pacific island of Nauru

The Guardian
Ben Doherty in Sydney
Wednesday 10 February 2016 01.00 EST

Australia's famously hardline refugee policies – in particular its practice of sending asylum seekers to remote foreign islands for processing and resettlement – are facing unprecedented pressure from widespread public protests and fracturing political support.

Thirty-seven babies born in Australia to asylum-seeker parents will be sent with their families to the Pacific island of Nauru as "illegal maritime arrivals", the government has said, resolutely defending the offshore processing policy that it insists saves lives at sea.

The long-running debate has been brought to renewed prominence by a ruling in the high court that upheld the government's constitutional right to build, fund and run offshore detention centres in foreign countries.

Australia's two offshore detention centres – in remote Nauru and the Papua New Guinean island of Manus – have been the site of consistent reports of violence against asylum seekers, including the sexual assault of children, and the rape of men and women in detention, as well as other abuses such as detainees being given out-of-date food and expired medication.

Two men have died in offshore detention: one beaten to death in a riot and another after his removal to hospital with an infected leg wound was delayed.

Paediatricians have reported children as young as seven attempting suicide in Australian-run detention centres, and one father on Nauru reported his two-year-old boy played with cockroaches in detention "because he has no other toys".

The high court ruling allows the government to move 267 asylum seekers to Nauru. Most have previously been held on Nauru, but were brought to Australia for their own, or a family member's, medical treatment. Some are suffering cancer or terminal illnesses, parliament heard this week.

Thirty-seven of the 267 are babies who were born in Australia to mothers who are seeking asylum. A further 54 are children, several of whom attend Australian schools.

The Australian Human Rights Commission found that 95% of the children who had previously been held on Nauru were at risk of post-traumatic stress disorder, and said children must be removed from the "toxic detention environment, which is causing and/or exacerbating mental ill-health".

Internal government documents obtained by the Guardian under freedom of information laws show people held in immigration detention have rates of severe mental distress nearly four times the general population in Australia, that children suffer more serious mental crises, and the damage to their mental health lasts longer after they are released.

The chief medical officer of the Australia Border Force, Dr John Brayley, told parliament this week: "The scientific evidence is that detention affects the mental state of children, it's deleterious ... wherever possible, children should not be in detention."

Full story at <http://www.theguardian.com/australia-news/2016/feb/10/let-them-stay-australia-backlash-267-asylum-seekers-island-detention-camps>

23. Baby Asha: Malcolm Turnbull says no one's health will be put in peril

PM says case of asylum seeker baby in Brisbane hospital facing removal to Nauru is being assessed 'with great compassion', as the Lancet savages Australia's detention policy

The Guardian

Daniel Hurst and Ben Doherty

Sunday 14 February 2016 19.50 EST

Malcolm Turnbull has weighed into the case of a Brisbane hospital that is refusing to discharge a baby facing removal to Nauru, saying the government would not "imperil the health or security of any individual", as Australia came under further international pressure over its asylum policies.

The Lancet, one of the world's leading medical journals, condemned Australia's immigration detention policies as "scandalously objectionable" and said it needed to develop a humane response, "starting with an end to the detention of children and their families".

Speaking in Townsville, the prime minister stressed the need for compassion, but reaffirmed his determination to maintain a hardline policy towards asylum-seeker arrivals because the "ruthless" people smugglers should not be given "one inch of encouragement".

The child, known as Baby Asha, was born in Australia to asylum-seeker parents and removed to Nauru in June at the age of five months. She is now 12 months old and has been in Brisbane for several weeks receiving treatment for burns at the Lady Cilento hospital.

Doctors have refused to discharge Asha because they believe the island's detention centre is not safe. The hospital said the patient would "only be discharged once a suitable home environment is identified".

Turnbull was asked about the case during a media conference on Monday. "We are assessing all of these cases carefully on a case by case basis," the prime minister said.

"No decisions would be taken which would imperil the health or security of any individual. We're managing this policy with great care and with great compassion, and at the same time doing everything we can to ensure that we do not do anything or say anything which will be used by the people smugglers to get more vulnerable people onto those boats."

Turnbull said the government wanted to reduce the number of children in detention "but it is a difficult job, because we have to do it in a way that gives no incentive to the people smugglers, who are ruthless".

"We give them one inch of encouragement and there will be more people on boats and we'll be back to what we had with the Labor party, I regret to say, which will be thousands of unauthorised arrivals and hundreds of people drowned at sea," he said.

Baby Asha's Nepalese Christian parents arrived in Australia by boat seeking asylum. The family was removed to Nauru over the objections of child welfare agency Save the Children who argued the leaking tents, and rat infestation in the section of the camp she was sent to be sent to would be "potentially catastrophic" for her well-being.

Asha almost immediately fell ill on Nauru, and her mother's breastmilk failed, reportedly because of the stress of detention.

Asha was returned to Australia several weeks ago after boiling water was accidentally spilled on her.

She has been treated, but doctors have refused to discharge her. A spokeswoman for Lady Cilento hospital said the baby would not be discharged until "a suitable home environment is identified".

Demonstrators campaigning to keep the family in Australia have camped outside the hospital, sustained by food served by hospital staff. Rallies were held on Saturday and Sunday, and another was planned for Monday afternoon.

Australia's medical fraternity continues to protest against immigration detention policies, in defiance of the Border Force Act, which carries a potential two-year jail term for "entrusted persons" who speak out about conditions in detention.

Australasia Psychiatry's February issue published five papers dedicated to the mental health impacts of immigration detention.

Dr Robert Adler, a psychiatrist who worked on Nauru, and a former refugee himself, wrote that having seen the despair and helplessness of asylum seekers on Nauru, he felt compelled to speak out.

Full story at <http://www.theguardian.com/australia-news/2016/feb/15/baby-asha-malcolm-turnbull-says-no-ones-health-put-in-peril>

24. Brisbane doctors 'risking jail' for refusing to discharge baby badly burnt on Nauru: Greens

ABC News Online

By Josh Bavas

First posted Sat 13 Feb 2016, 11:07am

Updated Sat 13 Feb 2016, 9:59pm

Medical staff have an ethical obligation to keep an asylum seeker baby at the Lady Cilento Children's Hospital in Brisbane, a doctors group says.

Protesters have been maintaining a vigil outside the South Brisbane hospital since Friday night in support of the doctors, who will not discharge the one-year-old girl known as Asha until a "suitable home environment is identified".

Asha is in a stable condition after she was accidentally burnt by boiling water in a tent on Nauru in January.

Her parents have been allowed to stay in Australia while their daughter is being treated.

All three are due to be sent back to Nauru.

Refugee Action Collective's Mark Gillespie previously said Asha's parents were terrified at the prospect of being returned to Nauru.

Doctors for Refugees spokesman Richard Kidd said on Saturday the doctors and nurses involved were distressed by the situation.

"There's overwhelming evidence that babies and children being put into detention does them great harm," he said.

"So for doctors and nurses we just can't send children from hospital into a place where we know they're going to be harmed."

Queensland Lawyers for Human Rights spokesman Benedict Coyne said the Government should intervene.

"Clearly there's a loud message from the Australian public and the Community and it's really up to the Prime Minister Malcolm Turnbull and Immigration Minister [Peter] Dutton to open their ears, the eyes and their hearts to this message that Australian people want clear and concerted efforts to change the border protection policy," Mr Coyne said.

Greens Senator Sarah Hanson-Young praised the actions of doctors and nurses involved in the case.

"Of course they risk their own careers in this because the Government doesn't like anyone speaking out of turn on this issue," she said.

"Doctors and nurses involved in the care of this child are risking two years jail for standing up for the rights and for the medical profession to be able to stand by their ethics."

Labor MP heckled by protesters

Father Nicholas Whereat from the Anglican Church said his parish was willing to support the family if they were allowed to stay.

"We're here to say that young Asha is a child who needs to be embraced and needs to be cared for," he said.

Labor MP Terri Butler address the crowd but was heckled by some who yelled out anti-Labor slogans. "It's the Liberals who are actually running these places right now who are failing to provide safe processing for refugees and asylum seekers," she said. "If you want to make this about me when I want to make it about baby Asha, then I think you should be ashamed of yourself."

"But look, let me tell you what I think. Firstly I believe Malcolm Turnbull can make a decision right now, can show some leadership right now and actually keep baby Asha here. "Wow, you must be so proud of yourself to be able to yell at me, how wonderful."

Ellen Roberts from GetUp stayed with a small group of protesters at the hospital entrance overnight. "What we're seeing here is a state institution effectively offering sanctuary against the Federal Government's extreme immigration policies," she said. "Health professionals know that detention is no place for children."

Mr Dutton has declined to comment on the case.

<http://www.abc.net.au/news/2016-02-13/brisbane-doctors-risking-jail-refusing-discharge-burnt-baby/7165892>

25. Baby Asha vigil on fourth day as hospital gets Queensland premier's backing

Doctors and MPs support Lady Cilento Children's hospital's determination not to return baby to Nauru detention, but former AMA heads are divided

The Guardian
Joshua Robertson
Monday 15 February 2016 02.17 EST

The case of Baby Asha and the Queensland hospital that refuses to sign off on her forced return to detention in Nauru has divided former heads of the state's top medical body, but united an influential range of supporters from fellow clinicians to the upper echelons of the Palaszczuk government.

A vigil by protesters outside the Lady Cilento Children's hospital entered its fourth day on Monday, with doctors, nurses and MPs among those who came to show solidarity with the hospital's determination that a Nauru detention camp was unsafe for the baby.

Protesters – some of whom are sleeping overnight to maintain a constant presence at the site between rolling rallies attracting hundreds of people – have been told by staff that the hospital switchboard has been “lit up” by calls of support.

Government backbencher Peter Russo was among those joining protestors on Monday, after the premier, Annastacia Palaszczuk, and health minister, Cameron Dick, both threw their backing at the weekend behind the hospital's stance.

Clinicians have treated the baby for burns caused by boiling water accidentally spilled on her in Nauru but insisted she will not be discharged until “a suitable home environment is identified”.

Their supporters include Judy O'Donnell, a retired doctor and former senior medical officer at the adjacent Mater hospital, who said she was “really just so proud they have taken this stand”.

“I think it's dangerous for them as well. There are possible repercussions for them in their careers,” O'Donnell said.

“If you're in public health and you do the ‘wrong thing’, there's a risk that you may be black-marked and your career may be affected adversely. I think that's a very real risk.”

O'Donnell said she had treated “a lot of asylum seeker children” when she worked in child and youth mental health at the Mater.

“I saw the damage and trauma they experienced before they ever came here and then trauma from detention as well. They need all the help they can get, not obstruction.”

O'Donnell said moves by the immigration department had gone “just a step too far by trying to send a badly injured infant back to the situation in which the injury occurred”.

“I think that's why there's been such a big turnout [to the rallies],” she said.

“I think they've just gone beyond what decent people can tolerate.”

Rita McBrier, a retired nurse who volunteered for a three-hour shift at the hospital protest, said she thought the fact it was hospital clinicians taking a stand on the conditions of Australia's offshore detention centres meant the federal government and the broader public “might take a little more notice”.

“I think, well done. Absolutely, well done,” she said.

Dr Richard Kidd, a former Queensland Australian Medical Association (AMA) president and still a member of the national body's board, has also been a strong supporter of the vigil.

This is in contrast to his successor as AMA Queensland president, Christian Rowan, now a state Liberal National MP, who told Guardian Australia that he thought the “law of the land” was a relevant factor alongside the right of clinicians to make their judgments in this case.

This echoed a comment by LNP opposition leader, Lawrence Springborg, who on Sunday called on doctors at the hospital to discharge the infant if she was fully recovered.

Rowan said he saw “no evidence”, on the basis of what was publicly known about the case, of clinicians attempting to politicise the case.

“But I have confidence in the federal government's ability to provide for the welfare of people in detention centres,” he said.

Rowan acknowledged there was a “variance of opinion” in the medical community on this point, “as there would be in the wider community”.

Pharmacist Peter Branjerdporn said public and state government support for the Lady Cilento doctors was significant when they were “putting their career on the line”.

“You can imagine being in there and trying to do your job and having the government trying to undermine your calling as a doctor,” he said.

“I’m a pharmacist, so it’s the same sort of thing, you try and do your job and do it really well. Apparently the government doesn’t appreciate that so I can imagine it’d feel pretty good having the general public and other organisations come and support you – right where you work as well, which is pretty important.”

Support from the state health minister – effectively their direct employer – would be on the other hand “really reassuring”, Branjerdporn said.

Terese Kingston, a secretary of the Australian Service Union’s Mackay branch, came down from central Queensland on the weekend to celebrate Valentine’s Day with her husband. The pair decided to spend Sunday at the rally after they found out about the protest via Facebook.

“What better way to feel the love than hearing about this rally and coming down?” Kingston said.

“I seriously mean that I couldn’t think of a better way to spend Valentine’s Day.”

Among the organisers of the protest – formally led by GetUp! – was Brynn O’Brien, a Sydney human rights lawyer who happened to be in Brisbane when the protest started on Friday.

O’Brien, who is involved in the related No Business In Abuse group, came straight to the protest from dinner in nearby West End and has been there every day since.

“The response has been amazing,” she said.

“A lot of tooting and revving and even beeps from ambulances and big trucks going past and that’s all really supportive. Obviously there’s a few people who go past and sledge you a little bit, saying ‘Send ‘em home’ but absolutely the minority.

“It’s quite a resolute vibe and people are feeling hopeful, probably for the first time in a long time, about this issue, and they can see the community power.”

Supporters on Sunday included a large group of Rohingya refugees who now call Brisbane home, who brought “delicious vege curry, pakoras and rice” for protestors to eat, O’Brien said.

There has also been “huge support” from local trade unions, doctors and nurses from nearby hospitals and churches, she said.

<http://www.theguardian.com/australia-news/2016/feb/15/baby-asha-vigil-on-fourth-day-as-hospital-gets-queensland-premiers-backing>

26. New Zealand Prime Minister John Key opens door to 37 asylum seeker children

Sydney Morning Herald
February 15, 2016 - 6:39PM
Fergus Hunter

New Zealand Prime Minister John Key has opened the door to accepting 37 asylum seeker children destined for Nauru, offering a solution to the current immigration standoff through a deal he struck with former prime minister Julia Gillard.

Speaking ahead of a meeting with Prime Minister Malcolm Turnbull this week, Mr Key said it was “potentially possible” for New Zealand to accept any genuine refugees from Australia under the agreement.

Mr Key said it had originally been made because it was “sensible and compassionate”.

The High Court recently dashed the hopes of asylum seekers and advocates by ruling that offshore detention was legal, clearing the way for 257 asylum seekers in Australia - mainly for medical purposes - to be sent back to Nauru.

“That offer is there. Historically, the Australians have said no but it is part of the 750 allocation that we have and if they wanted us to take people then, subject to them meeting the criteria, the New Zealand government would be obliged to do that because we’ve given that commitment that we’d do so,” Mr Key said.

When asked if this included the 37 children born in Australia, he said: "That's potentially possible but it would need to fit within the criteria that they are refugees as defined by the broader category that we take."

In 2013, Mr Key and Ms Gillard agreed that New Zealand would resettle 150 refugees a year from the Nauru or Manus Island detention centres.

Upon coming to power, former prime minister Tony Abbott effectively rejected the arrangement, saying the government's message to people smugglers had to be "crystal clear".

However, Mr Key's comments confirm that New Zealand regards the agreement to be ongoing.

Prime Minister Malcolm Turnbull has so far continued Mr Abbott's policy, saying in October that taking New Zealand up on their offer could "give the people smugglers incentive to get back into business".

When asked about the latest offer from New Zealand, a spokeswoman for Immigration Minister Peter Dutton referred Fairfax Media to these statements from both the Prime Minister and his predecessor.

"There'd certainly be an argument, I think, in that some of the people there need resettling. They are genuine refugees and if that's the case, then I can't rule that out," he said, adding there "could well be a humanitarian reason for doing that".

The Immigration Department's chief medical officer, Dr John Brayley, recently admitted keeping children behind wire has a "deleterious" effect on their mental health and revealed the parents of most children in detention have reported abnormal behaviour in their children.

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

Mr Turnbull will host Mr Key in Sydney on Friday for the annual meeting between the two countries.

The pair are expected to discuss trade, security and the contentious issue of the rights and detention of New Zealanders living in Australia.

Mr Key's comments will place new pressure on Mr Turnbull to pursue a humane resolution to the plight of the asylum seekers rather than insist on the continuation of the Abbott government policy of no exceptions.

Greens senator Sarah Hanson-Young has previously criticised the government for choosing to "dump" asylum seekers in places like Cambodia rather than taking up New Zealand's longstanding offer.

"If the government was actually interested in resettling people and letting them rebuild their lives it would have leapt at this opportunity.

"Instead they have chosen to continue to punish men, women and children for seeking a better life," she said in January.

<http://www.smh.com.au/federal-politics/political-news/new-zealand-prime-minister-john-key-opens-door-to-37-asylum-seeker-children-20160215-gmugsb.html>

27. Queensland backbencher joins Baby Asha protesters as LNP call for her to be discharged to Nauru

Doctors and MPs support Lady Cilento Children's hospital's determination not to return baby to Nauru detention, but former AMA heads are divided

The Guardian
Joshua Robertson
Monday 15 February 2016 02.17 EST

The case of Baby Asha and the Queensland hospital that refuses to sign off on her forced return to detention in Nauru has divided former heads of the state's top medical body, but united an influential range of supporters from fellow clinicians to the upper echelons of the Palaszczuk government.

A vigil by protesters outside the Lady Cilento Children's hospital entered its fourth day on Monday, with doctors, nurses and MPs among those who came to show solidarity with the hospital's determination that a Nauru detention camp was unsafe for the baby.

Protesters – some of whom are sleeping overnight to maintain a constant presence at the site between rolling rallies attracting hundreds of people – have been told by staff that the hospital switchboard has been "lit up" by calls of support.

Government backbencher Peter Russo was among those joining protestors on Monday, after the premier, Annastacia Palaszczuk, and health minister, Cameron Dick, both threw their backing at the weekend behind the hospital's stance.

Clinicians have treated the baby for burns caused by boiling water accidentally spilled on her in Nauru but insisted she will not be discharged until "a suitable home environment is identified".

Their supporters include Judy O'Donnell, a retired doctor and former senior medical officer at the adjacent Mater hospital, who said she was "really just so proud they have taken this stand".

"I think it's dangerous for them as well. There are possible repercussions for them in their careers," O'Donnell said.

"If you're in public health and you do the 'wrong thing', there's a risk that you may be black-marked and your career may be affected adversely. I think that's a very real risk."

O'Donnell said she had treated "a lot of asylum seeker children" when she worked in child and youth mental health at the Mater.

"I saw the damage and trauma they experienced before they ever came here and then trauma from detention as well. They need all the help they can get, not obstruction."

O'Donnell said moves by the immigration department had gone "just a step too far by trying to send a badly injured infant back to the situation in which the injury occurred".

"I think that's why there's been such a big turnout [to the rallies]," she said.

"I think they've just gone beyond what decent people can tolerate."

Rita McBrier, a retired nurse who volunteered for a three-hour shift at the hospital protest, said she thought the fact it was hospital clinicians taking a stand on the conditions of Australia's offshore detention centres meant the federal government and the broader public "might take a little more notice".

"I think, well done. Absolutely, well done," she said.

Dr Richard Kidd, a former Queensland Australian Medical Association (AMA) president and still a member of the national body's board, has also been a strong supporter of the vigil.

This is in contrast to his successor as AMA Queensland president, Christian Rowan, now a state Liberal National MP, who told Guardian Australia that he thought the "law of the land" was a relevant factor alongside the right of clinicians to make their judgments in this case.

This echoed a comment by LNP opposition leader, Lawrence Springborg, who on Sunday called on doctors at the hospital to discharge the infant if she was fully recovered.

Rowan said he saw "no evidence", on the basis of what was publicly known about the case, of clinicians attempting to politicise the case.

"But I have confidence in the federal government's ability to provide for the welfare of people in detention centres," he said.

Rowan acknowledged there was a "variance of opinion" in the medical community on this point, "as there would be in the wider community".

Pharmacist Peter Branjerdporn said public and state government support for the Lady Cilento doctors was significant when they were "putting their career on the line".

"You can imagine being in there and trying to do your job and having the government trying to undermine your calling as a doctor," he said.

"I'm a pharmacist, so it's the same sort of thing, you try and do your job and do it really well. Apparently the government doesn't appreciate that so I can imagine it'd feel pretty good having the general public and other organisations come and support you – right where you work as well, which is pretty important."

Support from the state health minister – effectively their direct employer – would be on the other hand "really reassuring", Branjerdporn said.

Terese Kingston, a secretary of the Australian Service Union's Mackay branch, came down from central Queensland on the weekend to celebrate Valentine's Day with her husband. The pair decided to spend Sunday at the rally after they found out about the protest via Facebook.

"What better way to feel the love than hearing about this rally and coming down?" Kingston said.

"I seriously mean that I couldn't think of a better way to spend Valentine's Day."

Among the organisers of the protest – formally led by GetUp! – was Brynn O'Brien, a Sydney human rights lawyer who happened to be in Brisbane when the protest started on Friday.

O'Brien, who is involved in the related No Business In Abuse group, came straight to the protest from dinner in nearby West End and has been there every day since.

"The response has been amazing," she said.

"A lot of tooting and revving and even beeps from ambulances and big trucks going past and that's all really supportive. Obviously there's a few people who go past and sledge you a little bit, saying 'Send 'em home' but absolutely the minority.

"It's quite a resolute vibe and people are feeling hopeful, probably for the first time in a long time, about this issue, and they can see the community power."

Supporters on Sunday included a large group of Rohingya refugees who now call Brisbane home, who brought "delicious vege curry, pakoras and rice" for protestors to eat, O'Brien said.

There has also been "huge support" from local trade unions, doctors and nurses from nearby hospitals and churches, she said.

<http://www.theguardian.com/australia-news/2016/feb/15/baby-asha-vigil-on-fourth-day-as-hospital-gets-queensland-premiers-backing>

28. Asylum seekers could face deportation to Nauru within fortnight, Craig Laundy says

ABC News Online

By political reporter Stephanie Anderson

First posted Tue 16 Feb 2016, 5:46am

Updated Tue 16 Feb 2016, 5:54am

The fate of more than 260 asylum seekers currently in Australia is set to be decided within the fortnight, according to the incoming Assistant Minister for Multiculturalism Craig Laundy.

The group of 267 people, including more than 30 babies, could be sent back to Nauru after the High Court threw out a challenge to the government's offshore detention network earlier this month.

The ruling sparked a series of protests across Australia with advocates calling on the government to allow the group — initially brought to Australia for medical treatment — to remain onshore.

Mr Laundy said the Government would make its decision by the end of the month.

He told the ABC that despite his vocal history on immigration issues, he would stand by the decision made by Immigration Minister Peter Dutton.

"It'll be worked out over the next week," he said.

"I'm very pleased with the language that's been used, that it will be worked work out in a compassionate way. I trust the Minister for Immigration will do so."

His comments coincide with action from staff at Brisbane's Lady Cilento Children's Hospital, who are refusing to release an asylum seeker baby if she is going to be returned to Nauru.

The one-year-old girl was brought to Australia last month after suffering injuries from boiling water. It is understood her condition is now stable and both her parents have been brought to Brisbane.

Former immigration minister Scott Morrison yesterday said that while it was not an easy decision, the government had to abide by the rules laid out in the policy. "The risk of departing from the policy in any way, shape or form basically sends an invitation for the trade to recommence," Mr Morrison told 2GB radio. "The Government continues to hold its line, absolutely, completely."

<http://www.abc.net.au/news/2016-02-16/asylum-seekers-nauru-fate-decided-within-fortnight/7170766>

29. Coalition reneges on promise to give 72 hours' notice before deporting 267 asylum seekers

However, the government agrees to warn lawyers and family of baby Asha, who doctors have refused to release from a Brisbane hospital

The Guardian
Helen Davidson
Monday 15 February 2016 22.15 EST

The Australian government has retracted its promise to give at least 72 hours' notice before deporting any of the 267 asylum seekers to Nauru or Manus Island, indicating it is gearing up to fast-track removals, human rights lawyers have said.

However, it has given a separate undertaking to warn the lawyers and family of baby Asha in Brisbane's Lady Cilento Children's hospital after emergency court action was taken by Australia's human rights law centre (HRLC).

Lawyers for the asylum seekers – who face deportation after the high court case which found Australia's role in offshore detention legal – have been told the government's promise to give three days' warning will soon "cease to apply".

The immigration department has moved to get all remaining matters related to offshore detention struck off the high court list, and in correspondence to lawyers over the past week has refused to maintain its offer of basic notice once the cases are closed.

HRLC's director of legal advocacy, Daniel Webb, said the government appeared to be clearing the way for fast-track deportations.

"Not only does it want to be able to return 267 incredibly vulnerable people to harm, it wants to do so suddenly and secretly without warning," said Webb.

"Families are terrified that one night soon they could be woken in the middle of the night and returned to harm. One mother told me that every time the door opens she is terrified that it is guards who've come to take her and her child back to Nauru.

"It's a matter of basic fairness and due process that vulnerable people have the chance to speak with their lawyers before being bundled on to a plane and deported."

The government has promised to give notice to the lawyers and family of baby Asha, a one-year-old child in a Brisbane hospital. Doctors have refused to release her over concerns about the conditions of the detention she would be returning to.

The HRLC filed an emergency high court proceeding on behalf of the family this week, which was vacated on Tuesday morning after the government agreed to give notice.

Webb said Asha had been subject to surprise deportation during the night when she was about five months old.

"They took her from her mother's arms and restrained her mother and father in cable ties," he said. "They forced the family into a van, then on to a plane to Nauru. That's a horrible thing to go through once. We'll do everything we can to make sure it doesn't happen again."

Asha and the 267 asylum seekers – including 37 babies born in Australia – have been the focus of mass protests in Australia after the government said they would be returned to Nauru and Manus Island.

State leaders also stepped in and offered to house and support them, and churches have offered sanctuary.

New Zealand's prime minister, John Key, said his country could take some people – if they were found to be refugees – under a 2013 agreement between the two countries which Australia has so far refused to take up because it says settlement in New Zealand may offer incentives for people smugglers.

The immigration minister, Peter Dutton, has been contacted for comment.

The assistant minister for multiculturalism, Craig Laundy, told the ABC on Tuesday that the fate of the 267 was likely to be decided within the next fortnight.

"It'll be worked out over the next week," he said. "I'm very pleased with the language that's been used, that it will be worked work out in a compassionate way. I trust the minister for immigration will do so."

<http://www.theguardian.com/australia-news/2016/feb/16/coalition-reneges-on-promise-to-give-72-hours-notice-before-deporting-267-asylum-seekers>

30. Malcolm Turnbull won't rule out refugee resettlement deal with New Zealand

PM to meet with his NZ counterpart, John Key, who has offered to take the 267 asylum seekers at the heart of a failed high court challenge to offshore detention

The Guardian
Shalailah Medhora
Tuesday 16 February 2016 22.36 EST

The prime minister, Malcolm Turnbull, has left the door open for a refugee resettlement deal with New Zealand, ahead of a bilateral meeting between the nations' leaders later this week.

On Monday, New Zealand's prime minister, John Key, offered to resettle the 267 asylum seekers at the heart of a failed high court challenge to Australia's offshore detention system.

Turnbull on Wednesday did not rule out accepting the offer.

"We are looking at all of the cases, or the [immigration] minister Peter Dutton is, very carefully, compassionately. They are being examined on a case by case basis," he told reporters. "John Key will be here tomorrow. He is a very good friend of Australia. We will be talking about these issues together but I don't want to foreshadow any changes to our policy."

The government has consistently said no asylum seekers who come by boat will be resettled in Australia. The policy leaves scores of people on Nauru or Manus Island who have been deemed refugees – and therefore cannot be returned to their home countries by international law – in limbo, facing either resettlement there or waiting for a third country to accept them.

Turnbull said reversing the tough stance on resettlement would mean more asylum seekers would die at sea while trying to make the perilous voyage to Australia.

"It will not just be thousands of unauthorised arrivals, it will be thousands of drownings at sea. They will be children. They will be mothers. They will be boys and girls and parents and grandparents," he said. "We have big hearts on our side of politics in our government ... but we have a very clear focus that ensuring our borders are secure is saving lives."

Key brokered a deal with former prime minister Julia Gillard in 2013 to resettle 150 of Australia's refugees as part of the country's annual humanitarian intake of 750.

The deal was never taken up by Gillard's Coalition successor, Tony Abbott, when he came to power in September 2013, but Key said it was still on the table, as long as the individuals meet New Zealand's threshold for refugee status.

"Historically the Australians have said no but it is part of the 750 allocation that we have and if they wanted us to take people then – subject to them meeting the criteria – the New Zealand government would be obliged to do that because we've given that commitment that we'd do so," Key said.

Turnbull will welcome Key to Sydney on Thursday night, ahead of the annual Australia-New Zealand leaders' meeting on Friday. It is the first such meeting for Turnbull, who successfully challenged Abbott to the prime ministership in September.

Earlier this month, the government won a high court challenge to the constitutionality of Australia's offshore detention system – a policy that is supported by both the Coalition and Labor.

The 267 asylum seekers – including 37 babies born in Australia while in detention – at the heart of the case now face deportation to Nauru. Doctors caring for one of the babies, known as Asha, at a Brisbane hospital have refused to release her if she faces deportation to Nauru, resulting in a days-long standoff.

Turnbull on Wednesday praised the Coalition's hardline Operation Sovereign Borders policy for "stopping the boats", despite border force officials confirming during Senate estimates this month that voyages are still being made.

Maj Gen Andrew Bottrell said that 23 vessels have been turned back since the Coalition won office in 2013. "There remains a persistent number of attempts, all of which have failed over the last year-and-a-half," he said.

<http://www.theguardian.com/australia-news/2016/feb/17/malcolm-turnbull-wont-rule-out-refugee-resettlement-deal-with-new-zealand>

31. Serco guards bar asylum seeker advocate from visiting Baby Asha in hospital

Former Save the Children worker Natasha Blucher says her permission to visit the one-year-old and her mother in Brisbane was revoked without explanation

The Guardian

Helen Davidson
Wednesday 17 February 2016 23.19 EST

Serco guards employed by the Department of Immigration have barred an asylum seeker advocate from visiting Baby Asha and her mother at a Brisbane hospital.

Doctors at Brisbane's Lady Cilento children's hospital are refusing to discharge the one-year-old baby, known as Asha, who was being treated for burns sustained at the Nauru offshore processing centre, because they do not believe the centre provides a safe environment for a child.

Natasha Blucher, a former Save the Children worker who is now advocacy coordinator for the Darwin Asylum Seeker Advocacy and Support Network (Dassan), has been supporting the family, but said her permission to visit with them has been revoked without explanation.

Blucher told Guardian Australia she had applied to visit Asha and her mother earlier this week. She had been granted permission by the Department of Immigration to visit the mother and baby on Tuesday, Wednesday and Thursday, citing their relationship of two years.

Blucher met with the pair on Tuesday morning, but upon returning in the afternoon she was approached by a "quite rude" Serco guard who told her approval had been revoked and she had to leave.

Subsequent repeated phone calls to the Department of Immigration have been ignored or fobbed off, according to Blucher.

Serco referred questions from Guardian Australia to the immigration department, which said visitation rights were decided on a case by case basis with a number of considerations, "primarily in relation to the ongoing security and welfare of the people they are seeking to visit".

The spokesman said the department was in contact with a number of people and authorities, including the family.

"Decisions are being made in the best interests of the child and family and where visitation refusals are made they are for good reasons, which may not be able to be shared publicly," he said.

"Authorised legal representatives and caseworkers for detainees are not impeded in their visitation applications. This individual is not an authorised caseworker for this family and does not deliver services on behalf of the department or its service providers."

In response Blucher said it didn't make sense for the department "to state that these decisions are made in the best interests of the family, when it's the family themselves who are so upset that I'm not allowed to see them".

Blucher said Asha's mother had not been allowed to receive calls from her on Tuesday night. She questioned the government's recent promise of compassion towards asylum seekers currently in the custody of Australian authorities. "The government has made statements that they are going to treat people with compassion and on a case by case basis," said Blucher.

"When Malcolm Turnbull was asked about Asha specifically he said he wouldn't comment on individual cases but that we'll be treating all people with compassion. Not allowing a mother with a sick child in hospital to be visited by someone she's known for two years when she has no other friends around is not compassion."

Asha was born in Australia to her asylum-seeker parents. In June she was removed to Nauru at the age of five months, against the advice of Save the Children. She developed gastroenteritis within a week.

A protest and vigil outside the Brisbane hospital supporting Asha and her doctors has entered its seventh day.

When asked about the case on Monday, Turnbull told media the government would not make any decisions which would "imperil the health or security of any individual". "We're managing this policy with great care and with great compassion, and at the same time doing everything we can to ensure that we do not do anything or say anything which will be used by the people smugglers to get more vulnerable people on to those boats," he said.

The government is also under pressure from community groups, churches and state and territory leaders to grant amnesty to 267 asylum seekers who are set to be deported back to offshore processing and detention following the high court decision which ruled the system legal.

On Wednesday human rights lawyers said the government had agreed to give at least 72 hours' notice of any attempt to deport Asha and her family back to Nauru. At the same time it was revealed the government had withdrawn its assurances to do the same for the 267 other asylum seekers facing transfer.

<http://www.theguardian.com/australia-news/2016/feb/18/serco-guards-bar-asylum-seeker-advocate-from-visiting-baby-asha-in-hospital>

32. Labor in bipartisan 'race to the bottom' on asylum seekers, says Jon Stanhope

Former Christmas Island administrator says rather than take the heat out of the debate, the party's approach is 'turning the screws' on 'draconian' policymaking

The Guardian
Shalailah Medhora
Monday 15 February 2016 15.17 EST

The Labor party has abandoned its principles and a large section of its voter base by embracing a "rigid bipartisanship" on the issue of asylum seekers, a party stalwart and former administrator of Christmas Island, Jon Stanhope, has said.

Stanhope is Australia's longest-serving head of a state or territory government, presiding over the Australian Capital Territory for Labor for a decade. He has worked as an adviser to former federal Labor MPs, and from 2012 to 2014 oversaw the governance of Christmas Island.

But the party elder has broken ranks on the indefinite offshore detention of asylum seeker children, labelling it "state-initiated and sanctioned cruelty".

"My great concern about the Labor party's position now – my great lament – is that it is engaged in a process that's taken them to the bottom where they've abandoned their principles, they've abandoned their own membership and a core constituency, and they don't have a plan B," Stanhope told Guardian Australia.

The two major parties have engaged in a "rigid" and "muscular" bipartisanship on the issue of offshore detention, and Labor has not been able to "dig themselves out of the mire", Stanhope said.

"What we see today is that the Labor party is silent. There's a prospect of sending more children to Nauru and the Labor party is silent because they're in this unholy alliance with the government that they daren't breach. So I just don't know how we're going to resolve this appalling situation that we have gotten ourselves into because there is a single approach [in policymaking]," he said.

"The politics is hard, I think we all know that this is a hard issue. I'm not pretending the answers are easy. I simply refuse to believe that there aren't options. I think that the mistake the Labor party has made with its muscular bipartisanship – we express it through the race to the bottom which both Labor and Liberals have engaged in."

"Indefinite offshore detention was re-initiated by my party. The children that are on Nauru now were sent there because of a policy put there by my party. It weighs on me very, very heavily. It's institutionalised, government initiated and sanctioned cruelty. It is.

"We know we're harming those children. We as a nation are harming children knowingly, and perhaps permanently and I just don't think that any nation can live with its own conscience or itself doing that."

Rather than taking the heat out of the debate on asylum seekers, Labor's bipartisan approach is "turning the screws" on "draconian" policymaking that is a complete abrogation of Australia's responsibilities under the UN refugee convention, Stanhope said.

"For my party, the Labor party, to be a willing part of that is very difficult," he said.

He has lashed out at federal Labor MPs for failing to publicly object to the direction the party has headed.

"I have no doubt that a significant number of my colleagues in the federal parliament – particularly within the left of the party – are deeply uncomfortable with the policies. But the difficulty is, they've become apologists for the machine."

Not a single MP voted down retrospective changes to the Migration Act that helped the legislation withstand a recent high court challenge, he said.

"Every single member of the Labor party put up their hand and said 'aye'. Just as every single member of the Labor party put up their hand and said 'aye' to the amendments to the Border Force Act that actually criminalised doctors and medical professionals advocating on behalf of clients on Nauru and Manus. The Labor party voted for that, every single one of them."

Stanhope admitted that taking on the role of administrator for Christmas Island, a territory that houses a massive Australian detention centre, deeply affected him.

"Upwards of 20,000 asylum seekers came to Christmas Island in the two years I spent there and I went out of my way to seek to engage [with them]," he said.

A number of state and territory first ministers, including current ACT chief minister Andrew Barr, have written to the prime minister, Malcolm Turnbull, urging him to let the 267 asylum seekers who were at the heart of this month's failed high court challenge stay in Australia.

On Sunday, the New South Wales Labor party national conference passed a motion calling on Turnbull to work with the states and territories that have offered to resettle the refugees to spare them from being deported to Nauru.

"A sense of compassion is in the best interests of these families and our status as a fair and decent nation," the motion said. "We have an obligation to care for these asylum seekers and to provide them a safe, secure and welcoming environment."

Labor's left faction lost a vote in the party's national conference in July to explicitly prohibit the turning back of asylum boats. Months earlier, the shadow immigration minister, Richard Marles, had indicated that Labor could adopt turnbacks, a cornerstone of the Coalition's Operation Sovereign Borders policy.

<http://www.theguardian.com/australia-news/2016/feb/16/labor-in-bipartisan-race-to-the-bottom-on-asylum-seekers-says-jon-stanhope>