

Project SafeCom News and Updates

Monday, 9 May 2016

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1. Stephen Charles: Our detention centres are concentration camps and must be closed

The Age
May 4, 2016 - 2:45PM
Stephen Charles

Many Australians may wonder why it was necessary to set up detention centres in the far north of the country, or offshore, far from the Australian mainland, surrounded by guards and razor wire, in circumstances of great secrecy, with all staff and visiting medical personnel banned from telling outsiders about conditions in the camps, or reporting physical or sexual abuse of detainees.

Or why it was necessary to make it nearly impossible for lawyers or journalists to visit the centres. Or why the Immigration Department was allowed (or required?) to delay vital medical treatment to Hamid Khazaei, causing his death. Or send a raped and pregnant detainee for an abortion to Port Moresby (where it is illegal) rather than Australia; or delay the treatment or transfer to Australia of the man who committed suicide last week by setting himself on fire on Nauru?

When Nazi Germany set up concentration camps in the 1930s, the purpose was to separate various groups – communists, Jews, homosexuals – from the German community, to prevent them being "tainted" by such people. The camps were maintained in great secrecy; most Germans had little or no knowledge of the awful and dehumanising conditions in which detainees were kept.

Australia's detention centres in Nauru and Manus Island may have originally been intended to hold detainees for a short period – say, six months – while they were investigated and their claims to refugee status were assessed. But that has long since ceased to justify the existence of these centres.

The conditions there are bleak, the tropical heat extreme, airconditioning is rare (guards, of course, are in much better, airconditioned, accommodation) – the guards and surrounding locals are hostile, and detainees are regularly physically and verbally abused.

The worst aspect, however, is the indefinite nature of the detention, and that so many of the refugees who have established their entitlement to refugee status have been held for more than three years, and face an indefinite future in detention.

Australia's policy towards asylum seekers is one of deliberate and calculated barbaric cruelty. It is clearly designed to make the situation of asylum seekers intolerable, to dehumanise them, and to force them to return to their original countries; for example, Hazaras from Afghanistan must return to a country increasingly dominated by the Taliban, which have waged genocide against them; and those who have fled Iran must return to the waiting arms of the Revolutionary Guards and Tehran's appalling Evin prison, one of the most frightful hell-holes in the world. Iran last year executed more than 1000 prisoners.

That Australia's policy is intentionally cruel is well demonstrated by government ministers who have rejected all offers, whether from New Zealand or the premiers of all Australian states, to settle any of the present asylum seekers. The Minister for Immigration and Border Protection, Peter Dutton, rejected those offers out of hand. The Prime Minister said it would not be a good marketing look.

The camps in Manus Island and Nauru have long since ceased to be mere detention centres. They are now concentration camps. Labor's immigration spokesman Richard Marles has called offshore processing "the single most important policy that any Australian government has made". The Prime Minister recently described those who oppose the government's policy towards asylum seekers as "misty-eyed".

A week ago, representatives from the United Nations High Commissioner for Refugees visited Nauru and told detainees that none of them would escape from the camps within 10 years. In the past week, two have set themselves on fire. It is the only way to end their suffering. Are those cowards and hypocrites in the Australian Parliament going to tell us that this is merely another attention-attracting device?

To think that Australia was among the creators and first signatories of the Refugee Convention.

Misty-eyed? That was the last straw for many Australians. No, Prime Minister, we are not misty-eyed, we are blazingly angry at the contemptible policy and disgraceful treatment that successive Australian governments have meted out in our name to asylum seekers, and which so degradingly defame us in the eyes of the rest of the world.

Prime Minister, it is high time for you and the rest of them to man up, dismantle those concentration camps, fulfil the obligations Australia undertook under international treaties, acknowledge the basic moral and ethical standards on which these treaties are based, and resettle the detainees in Australia.

<http://www.theage.com.au/comment/our-detention-centres-are-intentionally-cruel-and-must-be-closed-20160504-golr04.html>

2. Bruce Haigh: Asylum-seekers: Australians all, let's hang our heads in shame

Canberra Times
May 4 2016 - 12:00AM
Bruce Haigh

Australia is a sick country, primarily because it has become such a selfish and self-centred country. A sense of entitlement pervades, indeed is encouraged and fostered within the ruling class and politicians. For sure it's all about us, that is, the white Anglo Christians who comprise the bulk of the Australian ruling class.

Many psychologists say narcissism is rising in Australia. We don't have to be told that – we see it before us each day among the poorly performing politicians that the failing major parties plonk before us.

To say that I am angry with Malcolm Turnbull and Bill Shorten and their sycophantic lackeys, Peter Dutton and Richard Marles, is a significant understatement. The utterly shameful decision not to allow the people on Manus to come to Australia following the PNG Supreme Court decision can only be described as gutlessly self-serving.

At what point did we embark on becoming the most selfish country on earth. Was it John Howard with his smug "we shall decide who comes here" exhortation? Or was it his massive mining boom hand-outs to the suffering middle class? Or was it his deliberate attempt to create a ruling elite with his profligate hand-outs to private schools?

Where ever and however it came about we are now a society divided between the haves and have nots and asylum seekers are at the bottom of the pile of have nots, stripped of their rights even under Australian laws designed to protect them. How sick is that?

In Apartheid South Africa detained black activists were denied even their basic rights. They were demonised; so although Steve Biko was dying, following repeated police beatings, he was transported in a comatose state in the back of a Land Rover in a locked cage with an armed guard 1100 kilometres from Port Elizabeth to Pretoria. This was justified by a system that saw legitimate grievance and need as a threat to the state. Political activists such as Biko and Mandela were regarded and treated as terrorists.

The black force of Border Protection has adopted the same mentality for similar reasons. They feel charged with the responsibility for protecting privilege from the incursions of coloured "outsiders". We have witnessed the border protection mentality at play with the tardy transport to hospital in Australia of seriously ill men, women and children from Manus and Nauru. This has resulted recently in two deaths and an untreated unwanted pregnancy. All transport has been under armed guard. And this is directed against people who couldn't lift a finger to help themselves.

This is selfishness run amok. To "save" our supremacy we have resorted to the methods of a police state.

We learn that the asylum seeker Omid who died several days ago after setting fire to fuel he poured over himself on Nauru, had been "advised" shortly beforehand by UNHCR that he was to spend another 10 years on Nauru. Why would UNHCR act as the stalking horse for the Australian government? I don't know, except to say that they have done it before. In discussions that I was party to, UNHCR agreed not to classify Chinese women fleeing the one-child policy and claiming asylum in Australia. The deal on that occasion was increased regional funding for UNHCR by the Australian Government.

And now we learn that a 22-year-old Somali woman has also tried to end her life on Nauru. Surely the right-wing ideologues must be swayed by this. Australia is running a gulag, a concentration camp. History will be savage in its condemnation of all those responsible. And Dutton's statement accusing refugee advocates of causing these deaths and injuries is utterly contemptible.

Scott Morrison, erstwhile immigration minister and now the Treasurer has demonstrated again (as if we needed to have it demonstrated) his out-of-touch elitism by promising tax breaks for those earning above \$80,000. He apparently believes that God helps those who help themselves. How do you do that when you are incarcerated on Manus or Nauru?

And Australia was not built by hard-working immigrants fleeing poverty, persecution and victimisation in other lands?

Turnbull and Shorten attended private schools. Neither of them ever fled war or persecution. Are they examples of what those institutions aspire to? Most of those schools claim to be religiously based, but for the Christian schools among them the parable of The Good Samaritan appears to have gone missing in action.

I no longer attend the class reunions of my old private school. I cannot stand the attitudes of my privileged former classmates to asylum seekers and refugees. By Australian standards they're all wealthy and have enough to share. Their talk is of real estate and their trips overseas. Such people form the leadership cohort of Australia.

Here is the rub: to protect our privilege our governments banned the free flow of information from the detention centres and all off-shore border operations. They have threatened to jail doctors and nurses who speak out. This abuse of free speech has nothing to do with protecting our rights. It only has to do with protecting wealth and privilege.

The asylum-seeker policy is an ugly, rebranded White Australia policy. With one exception: if you have money, Australia doesn't give a bugger what race you are. Money is the key to admission. Not the fact that you are fleeing for your life, your freedom or your family's lives. Yes, we are now a corrupt country, morally, ethically and financially.

So many Australians – Asian, African and European – came to this land because it promised them freedom from oppression. They helped build our country, economically, culturally and ethically. Today's asylum seekers are no different. Odds-on they will prove to be better nation builders than most of the red-necks who oppose them or the cashed-up migrants who take their place in the queue.

---->>> *Bruce Haigh is a political commentator and retired diplomat.*

<http://www.canberratimes.com.au/comment/asylumseekers-australians-all-lets-hang-our-heads-in-shame-20160503-gokryt.html>

3. Sarah Smith: Refugees don't self-harm because of me, Peter Dutton, they self-harm because of you

Refugee advocates work day and night trying to prevent asylum seekers harming themselves – it is our greatest fear. To be blamed for it is devastating

The Guardian
Sarah Smith
Thursday 5 May 2016 11.11 AEST

Peter Dutton, what do you do between the hours of midnight and 5am? Do you sleep? If so, I really must ask – how can you?

Dozens of Australians sit up all night, every single night, comforting asylum seekers on Manus Island and Nauru. You don't have to, therefore the task falls to the advocates.

Let me tell you what this entails, since your statement blaming advocates for suicide attempts – of actually encouraging self-harm – suggests you are clearly unaware.

It is mind-blowingly hot on Manus and Nauru during the day, so our friends there try to sleep. We, safely onshore, sit tensely in the evenings, watching for the little green light that signals people have come online. When someone doesn't show up, there is a flurry of frantic calls between advocates; when did you last hear from them? What did they say? Are they in danger of self-harm? Who do you know in the same compound? The result of these calls can be anything from relief upon locating our friend, safe and sound, or that which is becoming more common – they've harmed themselves and are in International Health and Medical Services, or have been beaten by guards and thrown into solitary confinement.

We cannot sleep, Mr Dutton. We can close our eyes, but the horrors we are witnessing don't go away. And on the rare occasions we actually do get to sleep, we know there are no guarantees that our loved ones will be unharmed when we wake.

I will never forget the last night I actually slept for eight hours – it was in September last year, and I woke to discover one of my dearest friends on Manus had stabbed himself in the neck.

He apologised over and over again, he knew he'd broken his promise not to hurt himself, but after three years of incarceration, beatings from the guards and locals, as well as untreated medical conditions, the psychological damage means we cannot expect them to always have control over their behaviours.

He has since tried to drown himself, and I live in constant fear of losing him.

Nauru is a different kind of torment for us. As a mother, I get to watch my daughter play freely, build lego houses, drink babycinos, run excitedly through the shops, all the while knowing my friends on Nauru have children who have never known that freedom.

As a woman, I beg my friends there to eat, to drink water, all the while knowing that the reason they have no appetite is due to the constant sexual harassment from the guards. I cannot imagine living with that kind of constant trauma, let alone retaining the will to live through it all, day after day.

Then there's the vomiting, Minister. A number of advocates, including me, have become physically ill from what we are witnessing. It is of great concern to me that you do not have a similar reaction, as it seems the only logical response to such horrors. Many of us have been hospitalised for rehydration, and one for a blood transfusion due to internal bleeding. The human mind is not wired to cope with what we are seeing unfold.

How can you stand back, with all of the power you have, and allow these things to occur?

And then, when somebody on Manus or Nauru finally breaks, under the sheer weight of the trauma being inflicted upon them on a daily basis, and commits an act of self-harm, you blame the people who spend each day and night trying to prevent this from happening.

Minister Dutton, if you believe people are being coached to self-harm, or are self-harming in order to come to Australia, then you don't understand the fundamentals of self-harm. Perhaps you should talk to one of the two psychiatric nurses who have given up their paid work here to support people on Nauru and Manus full-time.

Perhaps you should discuss it with any of the child abuse or domestic violence survivors – there are a great many of us who are supporting survivors of the same who are in offshore detention.

All day, and all night, day after day, our greatest fear is of losing the people we call our brothers, our sisters, our sons, our daughters. We know and love these people as family members, and they have shared in our lives, as we have in theirs, during this terrifying journey we've found ourselves on.

I'm no expert on anxiety or depression, so I'm not going to talk about the conditions that have become so prevalent in those who have sought refuge in this country, only to be sent to a place that closely resembles the popular idea of hell. Plenty of experts have already clearly stated the harm that is caused on Manus and Nauru: these statements were dismissed by your department. So it's up to the advocates to attempt to lift the burden of crippling, untreated mental illnesses from the shoulders of our friends.

We can only do so much over the phone, however. What do you say to a sobbing man at 3am who simply cannot take any more beatings? What do you say to a frantic mother with a sick baby whose condition isn't being treated adequately? How can we ask them to keep suffering at our hands, knowing our tax dollars are paying for this lengthy and seemingly endless torture? But we do. We beg them to keep going, plead with them not to allow their story to end this way. We cajole, we bargain, we make promises, and somehow, we've managed to keep almost everyone alive. It seems miraculous under the circumstances that I haven't lost anyone I love.

I can't tell you what it's like to live with this fear, this devastation, this utter helplessness.

What I can tell you, Minister Dutton, is that asylum seekers are not self-harming because of the advocates.

Asylum seekers are self-harming because of you.

---->>>> *Sarah Smith is a refugee advocate for asylum seekers on Nauru and Manus Island*

<http://www.theguardian.com/commentisfree/2016/may/05/refugees-dont-self-harm-because-of-me-peter-dutton-they-self-harm-because-of-you>

4. Michael Bradley: No one burns themselves to change their address

ABC The Drum

By Michael Bradley

First posted Thu 5 May 2016, 6:11am

Updated Thu 5 May 2016, 6:16am

At some point it just gets too hard to maintain the story that we're pushing some asylum seekers to burn themselves so that others won't drown themselves (it only sounds so stupid because it is, but that is the logic of our policy). Michael Bradley writes.

"Now, the recent behaviours in Nauru are not protests against living conditions. These complaints are largely because people want to come to Australia." - Peter Dutton.

The good news for Omid Masoumali and Hodan Yasi is that their "behaviour" has succeeded in getting them into Australia. Omid is dead and Hodan is in a critical condition. But they're here.

The apparent reasons for which people historically have set themselves on fire (there have been hundreds in the past few decades alone) have been quite varied, but they have never, until the cases of Omid and Hodan, included the use of self-immolation as a tactic for personal gain.

Gosh, so Peter Dutton said something both moronic and jaw-droppingly insensitive; now there's a surprise. He doubled down by expressing his personal "frustration and anger at advocates and others who are in contact with those in regional processing centres and who are encouraging them to engage in behaviours they believe will pressure the Government to bring them to Australia."

Yep, if I was advising a refugee on Nauru I'd definitely be recommending self-immolation as a winning strategy.

Grow up, Minister. You have personal custodial responsibility for the people you've sent to Manus Island and Nauru; their welfare, physical and mental, is legally and morally on you. You may be able to console yourself that the infantile rhetoric you keep spewing out is playing just fine with the majority of the electorate (which, indeed, it is), but it's not on them; it's on you.

In truth, probably even Mr Dutton can recognise the fact that nobody sets themselves on fire so they can change their address. What they do all have in common is one thing: desperation. Desperation at a level which almost nobody can understand. Desperation so total that self-abnegation is the only language able to give it expression.

Omid was 23, Hodan is 21. They wanted to come to Australia, Mr Dutton's right about that. So does everyone else in the camps on Manus and Nauru. Our last three governments have each told them, over and over again, that they will never live in Australia.

Our regular intake of 13,750 refugees a year, plus the bonus 12,000 Syrian intake, will live in Australia. But not the anomalous group who came at the wrong moment in our history and were despatched to offshore detention.

In policy terms, this is all good. The boats were stopped, it is accepted by both sides of politics, because we've proved through our steadfastness that the door is bolted shut. For Omid and Hodan, however, it's taken a while for the realisation to sink in that our victory was bought by terminating their hopes.

True hopelessness is a rare sensation. Everyone experiences moments in life which feel like it, but they're mostly a fair way up the hierarchy of needs. They rarely touch on our preparedness to go on living. Omid and Hodan realised last week that they had no reason to go on living. They could not go back to the places they had left; they would never be allowed into Australia; New Zealand would be a possibility but Australia has rejected its repeated offer to take refugees from offshore detention; they could not face remaining in limbo on Nauru.

Note your own reaction to the above circumstances. You either find the ability to empathise with a person who feels genuinely hopeless desperation; or you prefer to intellectualise their emotional state and run your ruler over their situation to pass judgment on whether they in fact have the right to feel the way they do. Either way, Omid and Hodan poured petrol on themselves and lit a match. Australia made a choice which caused them to conclude that this was their best remaining choice.

These "behaviours" are not a protest or a cry for help. They're simply the denial of self; the ending of everything; the final, public statement that "I give up; you win." The Department of Immigration and Border Protection case file of Masoumali, O. (and most likely that of Yasi, H.) can now be marked with the stamp of successful closure. We kept him out, and the video evidence of his "behaviour" will viscerally deter others from trying to get in.

Let's not be too "misty eyed" about this, hey Prime Minister? There's really no need to keep pretending that we're saving lives here. For how much longer will the mathematical logic hold? The sadly anonymous but politically useful 1200 drowned under Rudd-Gillard, does that still stack up OK against the death toll of refugees on Manus and Nauru, which is three so far and probably about to be four? All of them completely avoidable deaths, directly caused by our policy of indefinite detention. Does anyone think the suicides are going to stop now Mr Dutton has explained how angry it makes him when people under his care burn themselves to death?

No, at some point it just gets too hard to maintain the fiction that we're pushing some people to burn themselves so that others won't drown themselves (it only sounds so stupid because it is, but that is the logic of our policy). We've managed to ignore an extraordinary volume of awfulness so far: Transfield, which runs the Nauru centre, reported to the Senate in July last year that 253 detainees had attempted self-harm and 33 had reported alleged rapes or sexual assaults.

When you have people who've been in detention for more than 1000 days with zero hope of anything better, it is inevitable that more of them will be graduating from swallowing washing powder to more effective modes of suicide, and more of them will be inclined to do so in ways we find hard to ignore. The political calculus will shift as the toll rises. And, at some point sooner or later, the government of the day will face the backlash of Australia's collective shame.

Maybe that's the point: for the political purposes of both major parties, the only people who really need to care about the walking dead on Manus and Nauru are the individuals who happen to be the prime minister and immigration minister on that day when the music stops and the Australian public seeks to transfer its guilt on to whoever's then in charge. They're all gambling that it will be someone else.

Tired of hearing about this? Omid Masoumali was heard to say, before he set himself ablaze, "This is how tired we are." He won't annoy us with his hopes anymore.

<http://www.abc.net.au/news/2016-05-05/bradley-no-one-burns-themselves-to-get-a-change-of-address/7385522>

5. Sarah Mares: Tragedy on Nauru: we do not need to act like a stupid and brutal nation

The growing trauma surrounding our toxic detention system not only affects those who witness horrific events, but it takes a terrible toll on all of us

The Guardian
Sarah Mares
Tuesday 3 May 2016 10.47 AEST

The death this week of Omid, a young refugee held on Nauru, brought feelings of sadness but also great anger. News that a second refugee, a young Somali woman, has self-immolated and is fighting for her life in a Brisbane hospital only adds to this. These are tragic, entirely predictable and preventable consequences of our harsh border protection policies. It absolutely shames us as a people and a community.

And the finding by the supreme court of Papua New Guinea that detention of asylum seekers on Manus Island is illegal, brings shame on us as a nation. As does our refusal to accept the offer made by New Zealand to settle some of those, like Omid and this young woman, who have been found to be refugees.

The stubborn and divisive repetition of slogans about tough border protection and deaths at sea fails to justify the bribing of our neighbours and deliberate destruction of the lives of those who have sought asylum here. It is long past time for a bipartisan solution.

I am a child psychiatrist. I have visited families held in detention on and offshore and have seen lives diminished and destroyed as a consequence. I have also worked in child protection and know how much we invest in supporting families, in protecting Australian children from exposure to violence and neglect and in reducing family and sexual violence. But these refugee children, these people seem to be different, not entirely dispensable but almost, used by successive governments as deterrence.

They are hostage to our brutal domestic politics, the children unable to gain the safety their parents sought for them, at risk, held in inadequate and harsh environments, with despairing, desperate and now dying adults.

Trauma and despair are contagious. At least one other refugee has set herself alight but Omid's death also affects those who knew and loved him, the children and adults who saw him burning, and those staff who were responsible for saving him in a situation where adequate emergency care was reportedly not available or was delayed.

The dangers in this environment and inadequacy of medical care are clearly and tragically demonstrated by the deaths of Hamid Kehazaei from septicaemia and Reza Barati after being brutally bashed on Manus Island. There are growing reports of trauma in detention centre workers as well as asylum seekers. These are harsh, hopeless and unsafe environments. Psychological treatment in this environment is useless. It is detention itself that is toxic.

Omid set himself on fire in despair at continuing indefinite detention on Nauru despite having been found to be a refugee and despite having a wife and young child. How could he have done this? We need to try and imagine how he felt. He set himself on fire in front of UNHCR representatives who were on Nauru to conduct a monitoring visit into the deteriorating mental health of those held in offshore camps. We may try to comprehend, but we cannot possibly accept that he was brought to this by our policies.

In the face of this and the mounting number of deaths and attempted suicides in detention, alongside the irrefutable scientific evidence, the eyewitness and expert accounts as well as the government's own data, it is hard to imagine what possible medical and psychological advice might be given to parliamentarians by their expert advisors apart from: "These camps must be closed immediately. We must find a solution."

Anything else amounts to justification for this disaster continuing.

The deaths in detention and the wider toll is mounting; for people detained, for local people exposed to or enlisted in the despair, for workers and for us a country, our reputation, and our sense of being a good and fair people.

The despair, violence and trauma will continue to escalate unless an urgent bipartisan solution is found for all people held in limbo, on Manus, Nauru, Christmas Island and onshore, held hostage to brutal domestic politics, since the Regional Settlement Arrangement (RSA) came into effect on 19 July 2013.

Malcolm Turnbull is the one with something obscuring his vision if he believes he can dismiss protest in the circumstances as "misty-eyed". That is an insult to everyone who feels that asylum seekers and refugees can and should be treated humanely and given protection and who have trusted our parliamentarians to find a just way to do this.

The international and regional situation may be complicated, but things here are pretty simple; what we are doing to people in the name of protecting our borders under the RSA is plain wrong.

We do not need to act like a stupid and brutal nation, which ignores our international obligations and treats some lives as worth less than others. I remain hopeful, perhaps against the odds that a solution to the current trauma can be found. This requires:

- A moratorium on the RSA while a workable regional solution is found that does not cost lives, hold asylum seekers hostage to divisive local politics and rely on bribing dysfunctional and bankrupt neighbours.
- All asylum seekers and refugees detained or held on Nauru and Manus Island must be brought to Australia.
- All outstanding claims for asylum by those who arrived by boat since July 2013 should be processed immediately.
- All those found to be refugees should be offered asylum in Australia or in New Zealand.

Our politicians need to find a solution now and end these fatal and divisive politics. Lives and money will be saved, not wasted and lost in the process.

<http://www.theguardian.com/commentisfree/2016/may/03/tragedy-on-nauru-we-do-not-need-to-act-like-a-stupid-and-brutal-nation>

6. Michael Gordon: Nauru tragedies are a failure of policy and politics

The Age
May 3, 2016 - 12:03PM
Michael Gordon

The day a young Iranian husband died after setting himself alight on Nauru last week, Immigration Minister Peter Dutton released not one, but two, media statements accusing Labor of being weak on border protection.

The first one accused Bill Shorten of refusing to rule out bringing the "Illegal Maritime Arrivals" on Nauru and Manus Island to Australia, saying the Labor leader would "talk tough before the election and back-flip in government".

The second said pretty much the same thing. Neither made mention of the fact that a 23-year refugee, consigned to indefinite limbo on Nauru by the Australian government policy, had felt compelled to take his own life.

Now another young asylum seeker, a young Somali woman, has set herself on fire three days, we are told, after she was returned to Nauru against her will after receiving medical attention in Australia.

Both tragedies represent a failure of policy and politics, and the interplay between the two. Both pose the question: Just what will it take for the Coalition government to rethink a policy that relies on punishing more than 2000 damaged people, year after year, to keep the people-smugglers at bay?

It was Kevin Rudd who, desperate to minimise the scale of Labor's defeat in the 2013 election, took the punitive policy of indefinite offshore detention embraced by both sides of politics to a new level, declaring those processed on Manus and Nauru would never be settled in Australia.

Now the mindset of the Coalition (and Labor) is that any deviation from this position will be a "green light" to the people-smuggling trade and trigger an armada of boats from Indonesia.

The difference is that Labor says it would actively pursue a "pathway to permanent migration in a resettlement country" for those on Manus and Nauru, while the Coalition has comprehensively failed in this area.

Not only is the Coalition opposed to resettlement of those on Nauru and Manus in New Zealand, on the grounds that it would be possible for refugees to make it to Australia (a position shared by Labor), it says the only option for those on Nauru is Cambodia, one of the poorest countries on earth. As for those on PNG, it says the only option is PNG, where danger is ever present for outsiders and most would have no prospect whatsoever of earning enough money for immediate family members to ever join them.

The result of this is that the mental state of those in limbo on Nauru and Manus is far worse than was the case for those who spent as much time on Nauru under John Howard's "Pacific Solution".

Their sense of hopelessness and helplessness is greater because, unlike those held on Nauru in the early 2000s, whose numbers dwindled as they were slowly resettled in Australia and New Zealand (without re-starting the boats), they have nothing to look forward to. Absolutely nothing.

Those willing to take their own lives in such horrible circumstances are not, as the Nauru government asserts, attempting "to influence the Australian government's immigration policies". Nor are they responding to advocates who have given them "false hope", as Dutton asserts. They have simply given up.

The Coalition's vow that nothing will change is based on the crude and callous calculation that the damage to those on Nauru and Manus is preferable to the prospect of many more deaths at sea once the people-smuggling trade resumes.

That leaves us with the worst situation imaginable: A government that not only refuses to bend, but also seeks to exploit the issue for political gain during a marathon, eight-week election campaign, as increasing numbers on Nauru and Manus lose the will to live.

<http://www.theage.com.au/federal-politics/political-opinion/nauru-tragedies-are-a-failure-of-policy-and-politics-20160502-gokmb6.html>

7. Jeff Sparrow: What's the end game for Australia's border policy – a world of walled city-states?

What if we started talking about refugees as assets rather than liabilities? That might sound hopelessly idealistic but it's much less utopian than the fantasy that the status quo depends upon

The Guardian
Jeff Sparrow
Friday 6 May 2016 12.09 AEST

In her much-anthologised story *The Ones Who Walk Away from Omelas*, the great novelist Ursula le Guin describes what seems at first to be an almost idyllic land.

The people of Omelas live by the sea, where they enjoy “a boundless and generous contentment” in a wealthy and prosperous society. There's just one catch. Underneath a public building in Omelas sits a whimpering child, permanently imprisoned in a tiny room and deprived of all comfort and pleasure.

Everyone in Omelas knows that the child's there. But they also know that “their happiness, the beauty of their city, the tenderness of their friendships, the health of their children, the wisdom of their scholars, the skill of their makers, even the abundance of their harvest and the kindly weathers of their skies, depend wholly on this child's abominable misery.”

Le Guin explains that, when young people in Omelas learn of the child, they're invariably sickened by what's been done to it.

But the elders of the city explain the necessity.

FULL STORY AT <http://www.theguardian.com/commentisfree/2016/may/06/whats-the-end-game-for-australias-border-policy-a-world-of-walled-city-states>

8. The Saturday Paper: Turnbull's four missed chances to end detention

The Saturday Paper
Tony Blackshield
May 7, 2016

Malcolm Turnbull has now had four legal opportunities – invitations, really – to rescue us from the quagmire of our war against refugees. These were moments where the law offered him political cover to dismantle the system of offshore processing, but each time he has ignored them.

His first opportunity came in January this year. Back in 2013, New Zealand had offered to take 300 of Australia's refugees – 150 in 2014 and another 150 in 2015. Julia Gillard accepted the offer, but Tony Abbott rejected it. With the offer expiring in January, the possibility was raised again, but Turnbull dismissed it. A few weeks later New Zealand's prime minister, John Key, renewed the offer. Again, Turnbull rejected it.

The posturing is self-contradictory. The government insists that the fate of the detainees on Nauru and Manus Island is entirely the responsibility of Nauru and Papua New Guinea respectively. The claim is obviously false. Yet if it were true, Australia could have no right to express an opinion about possible transfers to New Zealand: a transfer from PNG would be entirely a matter between PNG and New Zealand.

The second opportunity for Turnbull was the case of the woman known only as Plaintiff M68, decided on February 3. The final result turned on legislation introduced in June 2015 by the Abbott government – with Labor support – giving retrospective authority for the transfer of detainees to Nauru, backdated to August 2012. The High Court majority held that this legislation was valid, so that the plaintiff's major contention need not be decided.

This was a victory for the government; yet the real significance of the case lay elsewhere.

[...]

The PNG court has held the detention centre to be illegal. The illegality is not merely incidental or minimal or severable: it goes to the root of the contract. The “contractual obligations” are not merely unenforceable, but legally void.

Every first-year law student remembers the case of *Pearce v Brooks*, decided in 1866. A prostitute had agreed with a coachbuilder for the hire of an ornamental brougham in which she could ride about the streets of London plying her trade. When he sued her for the hiring fee, it was held that there was no enforceable contract: its basis was illegal. Far from having a legal obligation to perform the contract, Broadpectrum and Ferroviaal have a legal obligation not to do so.

[....]

FULL STORY AT <https://www.thesaturdaypaper.com.au/opinion/topic/2016/05/07/turnbulls-four-missed-chances-end-detention/14625432003217>

9. The Saturday Paper: Let Them Stay asylum seekers in community detention limbo

One of only two journalists to have visited Nauru since it effectively closed its borders to scrutiny reconnects with one of the families released into community detention in Australia after the Let Them Stay protests.

The Saturday Paper
Karl Mathiesen
May 7, 2016

What would this Australian woman think of him? Azad wondered beforehand. He was an “illegal” and the only Australia he knew had been brutal.

They met her at his friend’s house, just days after Azad’s release from detention. For three years he had been trapped in her country’s immigration system. But this woman was warm when she spoke to his wife, Yasaman, and their baby daughter, Hadiyah. And they needed friends.

They spoke together a long time before the woman finally asked if he knew their mutual friend because they had been detainees. Yes, he said, on Nauru.

Instead of judgement, the woman apologised, again and again. Over the coming days, many of her friends would visit Azad and Yasaman’s small government-supplied home, each carrying food or something for the baby – tokens of goodwill and guilt. Some of them drove for more than two hours to get there. Picking up his phone and finding missed calls and messages, Azad turned to his wife: “We are not alone.”

It has been a long, despairing road for the couple since they sought asylum from political oppression in Iran. They were briefly detained on Christmas Island, then spent two years on Nauru and the past year in detention on the Australian mainland, where they were brought temporarily for Yasaman to give birth.

Following the nationwide Let Them Stay protests in February, more than 100 families such as theirs – brought from Nauru to Australia for a variety of mostly medical reasons – have been released from Australian detention centres on community detention visas. Against all hope they have wriggled through the cracks of a system that vowed they would never make it this far. These were the people who were hidden behind razor wire on faraway islands. For the first time, Australians can meet them.

A hoarse and persistent cough suggests Azad’s health is poor. He hints that his state of mind is fragile but it is Yasaman who gives him the most concern. She fears the outside world and at night she follows Azad to the kitchen to make tea so she will not be alone.

FULL STORY AT <https://www.thesaturdaypaper.com.au/news/immigration/2016/05/07/let-them-stay-asylum-seekers-community-detention-limbo/14625432003214>

10. Australia can't out-Trump Trump on refugees, Q&A warned

Journalist George Megalogenis says politicians must tackle the growing detention centre crisis or risk damaging the country’s reputation for good

The Guardian
Calla Wahlquist
Tuesday 3 May 2016 08.04 AEST

The self-immolation of a second asylum seeker on Nauru and the expected closure of the Manus Island detention centre could force the major parties to rethink their ban on letting those refugees settle in Australia, political journalist George Megalogenis has said.

Speaking on the ABC's Q&A program on Monday night, Megalogenis said Papua New Guinea's decision to close Manus Island detention centre after its supreme court ruled it illegal, coupled with recent tragedies on Nauru, had made the issue difficult to ignore.

"Manus Island is clearly not functional at the moment but the government thinks: 'If we bring them onshore we've lost a debate and we'll lose the election'," Megalogenis said. "Malcolm Turnbull and Bill Shorten would rather talk about anything else. They don't want to see boats coming in the middle of an election campaign."

But Megalogenis said reports of the growing mental health crisis in Australia's offshore detention centres could force either the Coalition or Labor to act.

A 21-year-old Somali woman set herself alight in Nauru detention centre on Monday, three days after an Iranian refugee, a 23-year-old man named Omid, died from burns sustained when he set himself alight on Nauru on Wednesday. The woman, named Hodan, was taken to Nauru hospital with severe burns on Monday night.

"It doesn't matter how many boats come or don't, if one person a week is setting themselves alight in an election campaign, sooner or later is going to target our consciousness that we're holding hostage hundreds of people because we can't sort this out," he said.

"I think in the long run the world, when it pays attention to Australia, wants to see a good citizen ... and when we start playing other games, trying to be the nastiest country in the region – out Trump-ing Trump before Trump had even been invented in terms of asylum seeker policy – I think it's only a matter of time before our luck runs out."

Megalogenis made the comment in response to a question from Lauren Malanos, who asked why Malcolm Turnbull had refused New Zealand's offer to take the Manus Island detainees.

"People do not seek asylum because a people smuggler convinced them through effective marketing ... When can we stop purposefully denying existing refugees their futures simply to use them as a deterrent and help them, as is every developed country's duty?" Malanos said.

The panel included Megalogenis; Australian Financial Review political editor Laura Tingle; American writer and journalist James Fallows; the NSW assistant minister for health, Pru Goward; and Iain Walker, the executive director of the newDemocracy Foundation.

Fallows, a national correspondent with the Atlantic, said Australia's approach to asylum seekers had damaged its international reputation. "Australia does not look good at the moment with this policy, on either side of the debate, but no-one looks good [on the refugee issue] right now," he said.

Goward, asked whether she thought Australia should accept New Zealand's offer to take the Manus refugees, said it was "not an issue, I have to say, I have followed very closely" and that she had "no opinion".

Turnbull is expected to call an election this week after the budget is handed down on Tuesday. Tingle said the resulting race would be between a man who believed himself born to be prime minister, but was not very good at politics, and a "street fighter" in Bill Shorten.

"This campaign will either see him [Turnbull] turn into a PM who can lead, who can communicate, because it will just snap into place, or he's going to spontaneously combust like the drummer from Spinal Tap," she said.

Tingle said that coming up against a one-term government meant the Labor party had "absolutely nothing to lose" and was prepared to take risks, which differentiated this election from the past six years of conservative politics.

But Walker, whose organisation runs "citizen juries" to provide policy alternatives to local and state governments, said the Australian political system was not designed for deep election-time policy discussions.

"We have built a system that responds really well to slogans ... We've built a system based on voting for the person you hate less," he said.

<http://www.theguardian.com/australia-news/2016/may/03/australia-cant-out-trump-trump-on-refugees-ga-warned>

11. Self-immolation: desperate protests against Australia's detention regime

On Nauru, a man has died and a woman is in a critical condition, adding to toll of suicides and self-harm at offshore detention centres

The Guardian
Ben Doherty
Tuesday 3 May 2016 22.29 AEST

The video footage shot on a mobile phone last Wednesday is unsteady but clear enough.

It shows a man, drenched in liquid, standing alone in a clearing, pleading. No one, it seems, wants to stand near him. In the background, the white shirts and blue caps of staff from the UN high commissioner for refugees are apparent.

"This is how tired we are," the man yells desperately. "This action will prove how exhausted we are. I cannot take it any more."

The man makes a swift, small movement with his right arm, and suddenly, his body is alight.

The video picks up his screams as he flails and runs, then falls and is covered with a blanket by onlookers. After he lies still but conscious, while others around cry and yell for an ambulance. He makes no noise.

The man in the video, 23-year-old Iranian Omid Masoumali, set himself on fire in protest at his ongoing detention on Nauru, one of two offshore detention centres run by the Australian government as a deterrent for asylum seekers arriving by boat.

Masoumali had been recognised as a refugee: he was judged to have a "well-founded fear of persecution" in his homeland and required protection. He had been on Nauru for three years.

Further video footage – the Guardian has chosen not to publish any of the clips – shows Masoumali's final hours of consciousness.

One clip shows him almost naked at Nauru hospital, pacing up and down and screaming – with peeling skin and severe burns apparent to his arms, legs, chest, and back – while distressed friends plead for him to be given assistance.

Another shows doctors and nurses struggling to administer painkillers, as Masoumali, still standing, continues to scream. People watching nearby are vomiting. He was later transferred to Australia but died on Friday.

Masoumali's case is not an isolated incident.

On Monday evening, Somali refugee Hodan Yasi set herself alight. Reports from Nauru suggest she has severe burns to 70% of her body, with her upper body and face most badly affected.

One person reported that "all of her clothes were burned off".

On Monday night, police surrounded Nauru's only hospital, where Yasi was initially treated, and physically restrained her friends from seeing her.

Yasi, who is between 19 and 21 years old, was returned to Nauru less than a week ago, having been brought to Australia last November after being seriously injured in a motorcycle accident. Fellow detainees at the Brisbane immigration transit accommodation say she screamed as she was forcibly dragged out by guards.

Yasi has now been flown back to Australia by air ambulance and remains in a critical condition.

In the days between Masoumali and Yasi's public acts of self-harm, at least six suicide attempts have been reported on Nauru, ranging from people swallowing razor blades, ingesting washing powder or attempting to hang themselves using bed sheets.

Sources on the island say self-harm and suicide attempts happen daily. Guards are issued with special hooked knives to cut down people who are attempting to hang themselves. On Nauru, some who survive a suicide attempt are charged, convicted, jailed and fined for the crime of attempting to take their own life.

The immigration minister, Peter Dutton, blamed the rise in the number of suicide attempts on Australian refugee advocates encouraging people to harm themselves.

"I have previously expressed my frustration and anger at advocates and others who are in contact with those in regional processing centres and who are encouraging some of these people to behave in a certain way, believing that that pressure exerted on the Australian government will see a change in our policy," Dutton said.

Refugee advocates say the allegations are offensive and desperate. They say they spend hours counselling people not to hurt themselves.

The reports of self-harm and widespread protests, often accompanied by videos now in broad circulation, have revealed the brutal reality of Australia's offshore detention regime.

The massive, secure camps are sealed off from external scrutiny. The entire nation of Nauru is essentially off-limits to foreign journalists. But information has leaked out, detailing a litany of abuses, sexual assaults and deprivations in Australia's island camps.

The graphic and public nature of Masoumali and Yasi's self-immolations has led to questions being asked of a policy that had enjoyed significant, if far from total, support, and was trumpeted by the government as a triumph.

Masoumali's widow, also a refugee, has criticised the delay in getting him care on Nauru, and the quality of care he did receive. She says it was hours before he was given painkillers. It was more than 22 hours before he was taken to a Brisbane hospital.

Masoumali's widow, who does not want her name published, told the Guardian that her husband was not given a sheet or a place to lie down, and that the hospital "didn't even have a clean syringe".

She said: "Staff in Nauru hospital couldn't help Omid in any way because they were unequipped."

She was flown to Australia alongside her husband and in the days following his death she said she was being kept in a Brisbane hotel by immigration authorities, denied access to a lawyer and sedated.

The Nauru government has said Masoumali received "the highest level of care".

Australia's offshore detention regime – long condemned by critics for its unbending punitive action but lauded by supporters as the key factor in "stopping the boats" – is facing unprecedented pressure.

The Nauru camp holds about 500 people, with a further 700 refugees "resettled" on the tiny Pacific Island. Because of the imposition of Australia's policy, refugees and asylum seekers make up more than 10% of Nauru's 10,000-strong population, and Nauru is now, per capita, accepts the third highest proportion of refugees in the world.

But Nauru has consistently refused to consider permanent resettlement for any refugees.

On Papua New Guinea's remote Manus Island just over 900 male asylum seekers and refugees are held, in detention and in a nearby "transit" centre.

Fewer than 20 men have been resettled in PNG, mainly in the city of Lae, where they report having been assaulted, robbed, left homeless, arrested, or forced to sell what little they own to survive.

At least six have made their own way back to Manus – some tried to break back into detention – either seeking food and shelter or because they did not feel safe living outside in PNG.

The PNG supreme court ruled last week that the detention of the men on Manus is unconstitutional and illegal and ordered the closure of the detention centre.

The PNG government has said it would shut the centre, and has asked the Australian government to find alternative arrangements for the men detained there. But the Australian government has said the men are the responsibility of PNG.

More than a week after the court ruling, the men remain in detention.

As the Australian election campaign gets under way this week, the issue of asylum seekers will once again be prominent, as it was in the elections of 2001, 2007, and 2013.

"Stop the boats" was the key campaign slogan for the Liberal leader, Tony Abbott, in 2013, when he displaced a Labor government he said had "lost control of Australia's borders".

The Liberal-National coalition policy in government – operation sovereign borders – involved intercepting boats and turning them back to Indonesia and Sri Lanka.

Combined with offshore processing and a resolute policy that no asylum seeker arriving by boat would ever be resettled in Australia (asylum seekers who arrive by plane are not subject to detention), the policy has seen a massive reduction in the number arriving by sea.

The prime minister who replaced Abbott – Malcolm Turnbull, who was elevated in a party coup in September – has maintained the policies, telling critics “we cannot be misty-eyed about this, we have to be very clear and determined in our national purpose”.

But the reports of abuse, which have included one asylum seeker murdered by guards, another who died of a treatable infection, and widespread reports of rape, sexual abuse of children, and violence against detainees – have plagued Australia’s detention centres.

The UN has repeatedly condemned Australia’s detention regime as unlawful and damaging. This week, the office of the United Nations high commissioner for refugees said there was “no doubt that the current policy of offshore processing and prolonged detention is immensely harmful” and called for Australia to move people to more “humane conditions”.

“The consensus among medical experts is that conditions of detention and offshore processing do immense damage to physical and mental health.”

The opposition Labor party, which previously supported all of the coalition policies on asylum, has this week sought to make a political point of difference, saying that while it remained in favour of offshore detention, it did not support the “indefinite detention” of the current regime and committed itself to resettling people in third countries. It did not name any potential countries.

In a further complication on Tuesday, a fishing boat reportedly carrying 12 asylum seekers from Sri Lanka landed on Australia’s remote Cocos Islands in the Indian Ocean. It was the first asylum seeker boat to reach Australian waters in six months.

<http://www.theguardian.com/australia-news/2016/may/03/asylum-seekers-set-themselves-alight-nauru>

12. Asylum seeker policy a 'festering wound that is killing people', says outgoing Melissa Parke

ABC News Online

By political reporter Stephanie Anderson

Posted Wed 4 May 2016, 12:33pm

Outgoing Labor MP Melissa Parke has slammed Australia's offshore immigration detention network as a "festering wound that is killing people".

The Member for Fremantle, who is stepping down after almost a decade in politics, has been a long-time advocate for asylum seekers.

She used her valedictory speech in Federal Parliament to accuse politicians of whipping up hysteria over asylum seekers and slammed the lack of transparency from an "increasingly militarised immigration and border protection agency".

"The war on people smugglers, accompanied by a faux concern for drownings at sea, has facilitated the profound deterioration in Australia's treatment of asylum seekers and refugees," she told Parliament.

"The present offshore detention system is a festering wound that is killing people and eroding our national character and reputation. It needs to be healed."

Ms Parke called on Australia to meet its international obligations and take in more refugees, proposing an increase in the existing humanitarian intake.

Her comments follow two self-immolations on Nauru — which left one man dead and another woman in a critical condition — and a decision by the Papua New Guinea Supreme Court which ruled that immigration detention was illegal.

Prime Minister Malcolm Turnbull stood by his statement that no one would be resettled in Australia.

Mr Turnbull told the ABC that while he sympathised with the "mental anguish" of the asylum seekers, the policy would not change.

"We know this is a tough policy, but the alternative is people drowning at sea," he said.

"The melancholy reality of this is that we have to be very strong in terms of our border protection, because we know what the alternative is."

Mr Turnbull refused to be drawn on whether advocates were to blame for recent unrest, as stated by Immigration Minister Peter Dutton and the Nauruan Government, instead encouraging everyone debating the issue to be careful to not offer "false hope" of resettling in Australia.

Government closing onshore processing centres

The Federal Budget allocated \$61.5 million over the coming financial year for regional processing centres, which comes in the wake of a \$1 billion blowout in the Immigration and Border Protection Department's budget in December.

But the Government aims to save more than \$68 million over the next five years from shutting down a number of centres onshore.

As foreshadowed by Mr Dutton in Question Time on Tuesday, the Government will work towards closing three onshore immigration detention centres: Perth Immigration Residential Housing and the Maribynong and Blaxland Immigration Detention Centres.

Additionally, the Wickham Point facility will not have its lease renewed once it expires in November and one of the facilities on Christmas Island will also be put into contingency.

Despite this, the remaining centres will cost \$80.1 million over three years in capital funding for security upgrades and additional accommodation.

This additional accommodation, to be built at the Melbourne facility, will allow families of detainees "to have regular contact" with their relatives.

The Government has also allocated \$9.1 million over two years to combat people smuggling, with Border Force officials to be stationed in Indonesia, Malaysia and Sri Lanka.

<http://www.abc.net.au/news/2016-05-04/asylum-seeker-policy-a-festering-wound-says-melissa-parke/7383324>

13. Refugee raped on Nauru flown to Papua New Guinea for abortion despite procedure being illegal

ABC News Online

By political reporters Anna Henderson and Dan Conifer

First posted Fri 6 May 2016, 6:59pm

Updated Fri 6 May 2016, 8:35pm

A Federal Court Justice has ordered Immigration Minister Peter Dutton not to seek an abortion in Papua New Guinea for a young refugee raped on Nauru.

According to the Federal Court, the African refugee — who attempted to reach Australia by boat — was raped on Nauru while she was unconscious and suffering a seizure.

She is now pregnant and seeking an abortion.

The court heard the procedure would not be safe or legal on Nauru, so the woman was flown to PNG for the procedure, despite it being illegal there also.

She remains in Port Moresby, but her lawyer George Newhouse has said she should be brought to Australia for the procedure.

Federal Court Justice Bromberg has made an order preventing Mr Dutton from organising the procedure in PNG, but has not ordered the Minister to relocate her to Australia.

According to the Federal Court, Mr Dutton denied having a duty of care to the refugee.

Despite having the power to bring her to Australia, he does not consider her circumstances "exceptional" enough to do so.

But in his findings, Federal Court Justice Bromberg said the woman remained entitled to protection under Australian law.

"She has no independent means," he wrote.

"She has been and remains dependant on the Minister for food, shelter, security and health care."

Mr Newhouse said his client — known as S-99 — had medical conditions and should be brought to Australia for the termination.

"The court has made it clear that the minister must provide her with this termination in a safe and lawful place," he said.

"She has neurological and gynaecological complications [that] require her to be treated in a place with a certain standard of care that's not found either on Nauru or in PNG."

Greens senator Sarah Hanson-Young said that the woman must be brought to Australia "where she can get the proper care she needs".

The Minister for Immigration has been contacted for comment.

<http://www.abc.net.au/news/2016-05-06/refugee-raped-on-nauru-flown-to-png/7392600>

14. Dutton risked safety of asylum seeker sent to PNG for abortion, court finds

Justice Mordecai Bromberg finds the immigration minister has a duty to provide the woman, identified only as S99, with a safe and legal termination

The Guardian
Melissa Davey
Friday 6 May 2016 20.16 AEST

The minister for immigration, Peter Dutton, exposed an asylum seeker who became pregnant after being raped on Nauru to serious medical and legal risks by flying her to Papua New Guinea for an abortion, the federal court found on Friday.

The minister also has a duty of care to provide a safe and legal abortion to the woman, identified only as S99, who relies on the minister for her care and who has serious neurological, physiological and psychological conditions, Justice Mordecai Bromberg found.

The woman, identified only as S99, was raped while in detention on Nauru after she fell unconscious as the result of a seizure. She woke to find blood and male discharge on her clothes. The rape resulted in a pregnancy and left her with severe post-traumatic stress disorder, evidence presented to the court from medical experts last week said.

The expert evidence also said that her neurological condition, suspected to be epilepsy but never diagnosed due to a lack of medical equipment on Nauru, along with a physiological condition Guardian Australia is unable to publish details of, and her poor mental health, meant an abortion was high risk and must be carried out by doctors with certain expertise.

However, because the Australian government has a policy not to bring asylum seekers to Australia unless the circumstances are exceptional, the immigration department sent S99 to Papua New Guinea for the procedure. She was sent there despite abortion being illegal in that country and the threat that she could be exposed to criminal liability, and despite the lack of appropriate medical expertise and equipment required for her. The minister also refused to send her to a third country, like Singapore or New Zealand, which expert evidence stated had the appropriate medical facilities.

S99 remains in limbo in Papua New Guinea after her lawyers issued an emergency court order to halt the abortion being performed there and has just entered her second trimester of pregnancy, at more than 12 weeks along.

Lawyers for Dutton said he did not believe S99's circumstances to be exceptional and also denied Dutton had a duty of care to her. Handing down his findings, Bromberg disagreed with them.

"She has no independent means," he said. "She has been and remains dependent on the minister for food, shelter, security and healthcare."

Because of this, Bromberg said Dutton had a duty of care to procure a safe and lawful abortion for S99, and that the abortion he made available to her in Papua New Guinea carried safety and lawfulness risks "that a reasonable person in the minister's position would have avoided".

However, Bromberg said his findings did not mean Dutton had to bring S99 to Australia for the procedure. Other countries with the necessary medical experts and equipment could also be appropriate.

S99's lawyer, Ron Merkel QC, told the court on Friday that S99's distress had grown in recent days, especially after news that two of her friends had self-immolated, and that her overall health was declining.

Merkel praised the court and Bromberg, which sat on Friday night, for its work in coming to a speedy judgment. But he said: "There is simply no basis for the minister to ask for more than 48 hours to comply with your honour's order.

"We say the time has run for the commonwealth to take a leisurely approach to this.

"Every teaching hospital in New Zealand or Singapore has the required facilities."

The risk to his clients health was "grave and imminent" the longer the delay, Merkel added. "That risk is not one she should be confronted with for any reason at all.

"The minister ... has medical advice, he's had expert evidence, he's had your honour's judgment. What more can he need?"

Lawyers for the Department of Immigration and Border Protection may appeal. As a result, her future remains uncertain and it is unclear where the woman may be sent to receive an abortion if no appeal is lodged.

Blomberg ordered that the abortion "not be procured so it takes place in any location where a person who participates in an abortion is exposed to criminal liability".

He also ordered that it be carried out in a place with the required neurological expertise and facilities, as well as other medical experts who could cater to S99's existing medical conditions.

In a statement, the Greens senator Sarah Hanson-Young said S99 had "been through enough".

"The ruling of the court makes it clear," she said. "This woman is still under the care of the Australian immigration minister and he must act within the law, ensuring that she's given a safe and legal abortion.

"This woman should never have been sent to PNG and it's shameful that she's been put in this position."

<http://www.theguardian.com/australia-news/2016/may/06/dutton-risked-safety-of-asylum-seeker-sent-to-png-for-abortion-court-finds>

15. Federal Court finds Australia owes Nauru rape victim a duty of care

The Age
May 6, 2016 - 7:07PM
Bianca Hall

Immigration Minister Peter Dutton owes a young African refugee raped on Nauru a duty of care, and must not force her to terminate her pregnancy in Papua New Guinea where it is neither safe nor legal, the Federal Court ruled on Friday.

But uncertainty still surrounds the woman's fate, with Mr Dutton and his department under no obligation to bring her to Australia for a safe and legal abortion - only to ensure she receives one.

The young woman, who was semi-conscious after suffering a suspected epileptic seizure when she was attacked on Nauru, had begged authorities to let her come to Australia to terminate the pregnancy she does not want.

Instead, Australia sent her to Papua New Guinea, where the criminal code states abortion is illegal.

Since then the woman, known only as S99, has spent a month in limbo in a Port Moresby hotel room, as first the High Court, and then the Federal Court, considered her fate.

Her barrister, Ron Merkel, told the court the woman had told her legal team on Thursday she felt she was "going crazy" and said she might hurt herself "like Hodan" - a reference to the young Somali woman who this week set herself on fire on Nauru.

Handing down his findings late on Friday, Justice Mordecai Bromberg told the court the woman must be considered under the protection of Australian law, despite the fact she lives in Nauru.

"She has no independent means," Justice Bromberg told the court. "She has been and remains dependent on the Minister for food, shelter, security and healthcare."

Justice Bromberg said Australia, by extension, had a duty of care to provide the woman with a safe and lawful abortion.

Lawyers for the government had denied Australia owed the woman a legal duty of care.

David Nockels, assistant secretary of Australian Border Force's detention services division, told the court last week sending the woman to Australia would have breached immigration policy.

"From a policy perspective in terms of bringing people back to Australia if there are other alternatives ... we would pursue that," he said.

"That's why we have Nauru and Manus ... that's the policy perspective."

The court had been told the woman suffers from violent and regular seizures for which she receives medical care, and which would require specialist medical attention if she was sedated for a termination.

She also has severe mental health issues, special medical needs from a medical procedure she was subjected to as a young girl, and has tried to harm herself following her rape.

The court was last week told that Australia has referred at least two refugee women (including the woman known only as S99) for pregnancy terminations at Pacific International Hospital (PIH) in Port Moresby.

Abortion is illegal in Papua New Guinea, according to its criminal code, which states a woman who attempts to "procure her own miscarriage" faces a maximum seven years' imprisonment. Last year a PNG couple were jailed for five years for causing the death of their unborn child.

Justice Bromberg said it was unreasonable to consider an abortion procured in Papua New Guinea either a safe, or a legal, procedure.

The woman's barrister Ron Merkel told the Federal Court that Australia sending the woman to PNG for an abortion was tantamount to it "procuring illegal conduct".

Justice Bromberg forbade Australia from procuring an abortion for the woman in Papua New Guinea, but did not require her to be brought to Australia.

It's expected a third country will now need to be found for her termination.

<http://www.theage.com.au/national/federal-court-finds-australia-owes-nauru-rape-victim-a-duty-of-care-20160506-goohbm.html>

16. Immigration Department offers compensation to Save the Children workers

ABC-TV - 7.30

By Sarah Whyte

First posted Fri 6 May 2016, 10:06am

Updated Fri 6 May 2016, 10:56am

The Immigration Department has offered compensation to nine Save The Children workers who were removed from Nauru in 2014 after allegations that they were coaching asylum seekers to self-harm and inciting protests.

In a statement, the Department said it regretted its decision to remove the staff, and that payment of money was not adequate compensation.

It also acknowledged it did not provide Save the Children or the employees with detailed reasons for the removal.

"Although SCA (Save The Children) is no longer providing services for the Department on Nauru, the Department affirms SCA's good standing with it and acknowledges that at the time of the removal direction and subsequently, it had no reason to cause doubt to be cast on SCA's reputation," it said.

Two independent reports commissioned by the Federal Government dismissed the allegations and recommended the department offer compensation.

<http://www.abc.net.au/news/2016-05-06/immigration-department-offers-compensation-to-save-the-children-/7390674>

17. Immigration department compensates Save the Children over sacked Nauru workers

Department reaches settlement with workers accused of fabricating stories of abuse of asylum seekers and encouraging self-harm

The Guardian

Helen Davidson

Friday 6 May 2016 12.21 AEST

The immigration department has issued a statement of regret and agreed to compensation for the sacking of former Save the Children staff on Nauru who were subsequently deported over unsubstantiated claims they had coached asylum seekers to harm themselves.

The department said it had reached a confidential financial settlement with the NGO, indicating the amount would put Save the Children "in the position they would have been in, had the removal letter not been issued".

The release of the statement, which does not contain a specific apology, coincides with the current immigration minister, Peter Dutton, accusing advocates of encouraging self-harm.

In October 2014, 10 Save the Children staff were sacked, and nine deported, with the then immigration minister Scott Morrison saying he had received information indicating “that there may have been a level of coaching and facilitation and co-ordination amongst people who are working for one of our service providers”.

A News Corp report quoted a leaked internal intelligence briefing that reportedly claimed stories about the abuse of asylum seekers had been invented by the Save the Children workers and that they had encouraged detainees to self-harm to “achieve evacuations to Australia”.

Neither Save the Children nor its staff were given detailed reasons for the dismissals, but the department launched an immediate review, carried out by Philip Moss, a former integrity commissioner.

Two subsequent reviews – one by Moss and another by a former chief executive of the high court, Christopher Doogan – exonerated the workers and criticised the government’s actions.

On Friday the department formally acknowledged that in ordering the dismissal of the employees it had relied on allegations later found to be without substance, and conceded that “at the time of the removal direction and subsequently, it had no reason to cause doubt to be cast on SCA’s reputation”.

“The department also recognises that [Save the Children] has suffered detriment for which – to adopt the words of Professor Doogan – the payment of money cannot be adequate compensation,” its statement said.

“In this regard the department regrets the way in which, until the department released Professor Doogan’s review in January 2016, the allegations relied on by the department to issue the removal direction may have led other NGOs and members of the public to question the integrity of SCA as a provider of government services or, to the extent that it may be relevant, as a child rights organisation.”

The independent report by Doogan, found Save the Children workers were fired under political pressure from Canberra as a “circuit breaker” to quell protests on the island. It said the employees had been dismissed on “no evidence or reliable information” and they should be compensated by the Australian government.

The financial settlement is to the organisation, not the individual workers. Legal action on behalf of the workers is yet to be finalised.

Matt Tinkler, director of policy and public affairs for Save the Children, said the organisation was pleased with the outcome and settlement, and that the department had expressed its regret for the impact of the allegations which it relied upon.

“An apology for us has never been that important, for our individual staff that’s a question for them,” Tinkler told Guardian Australia.

Save the Children’s focus had always been on the care of people detained on Nauru.

“Our mission as an organisation is to support children in the toughest of places and children who are the hardest to reach,” he said.

“If we thought by being in Nauru we could better support and educate children, we would [return].

“It’s very clear what’s causing people to self-harm ... is not advocates,” Tinkler said. “It’s the complete lack of hope people have for their futures.”

This week Dutton blamed advocates for self-harm and suicide attempts on Nauru, including self-immolations by a young Iranian man who later died of his injuries, and a young Somali woman.

Dutton offered no examples of refugee supporters advocating acts of self-harm, but said his office received “advice” and “intelligence” that it was occurring.

“I have previously expressed my frustration and anger at advocates and others who are in contact with those in regional processing centres and who are encouraging some of these people to behave in a certain way, believing that that pressure exerted on the Australian government will see a change in our policy in relation to our border protection measures,” Dutton said.

The Greens immigration spokeswoman, senator Sarah Hanson-Young, said the compensation to Save the Children showed the government’s attempt to blame advocates and support workers had “backfired”.

“The situation on Nauru is no one’s fault but the government’s,” she said.

“These Save the Children workers were baselessly and unfairly accused of coaching self-harm on Nauru. Earlier this week we saw the government trying it on again, blaming advocates for giving refugees hope before two self-immolated.

"The fact of the matter is that hope is the only thing keeping many of the people on Nauru alive at this stage. The government's policy is designed to break people and the immigration minister must take responsibility for that."

<http://www.theguardian.com/australia-news/2016/may/06/immigration-department-pays-compensation-sacked-nauru-save-the-children-workers>

18. UNHCR calls for immediate transfer of refugees out of Manus Island, Nauru to 'humane conditions'

ABC Radio - Pacific Beat

By Richard Ewart, staff

First posted Thu 5 May 2016, 8:31am

Updated Thu 5 May 2016, 8:33am

The United Nations Refugee Agency (UNHCR) has called for the immediate transfer of refugees and asylum seekers out of the Australian-run detention camps on both Manus Island and Nauru.

A team from the UNHCR was on Nauru when Omid Masoumali, a young Iranian man who died later in a Brisbane hospital, set himself on fire.

Days later a 21-year-old Somalian woman set herself alight and remains in a critical condition.

"There is no doubt that the current policy of offshore processing and prolonged detention is immensely harmful," UNHCR said in a statement.

"There are approximately 2,000 very vulnerable refugees and asylum seekers on Manus Island and Nauru [and] despite efforts by the governments of Papua New Guinea and Nauru, arrangements in both countries have proved completely untenable."

It added: "UNHCR's principal concern today is that these refugees and asylum seekers are immediately moved to humane conditions with adequate support and services."

Over the last few years, the UNHCR has undertaken regular visits to offshore processing sites to monitor the situation of refugees and asylum seekers, including seven separate occasions to Nauru since 2012.

Recent events 'symptomatic of hopelessness'

Catherine Stubberfield, from the UNHCR's regional office in Canberra, told the ABC's Pacific Beat program the recent events are part of a continuum of deteriorating mental health witnessed over several years in Nauru that have reached a breaking point.

"These are highly predictable outcomes of prolonged detention, and they're really symptomatic of that people have now lost all hope," she said.

"When we talk about these incidents, we need to think about how these people feel — having fled trauma, persecution, war — thinking that they've come to a place of safety."

Ms Stubberfield added that such trauma combined with being held in a highly securitised environment in a constant state of uncertainty — where individuals "have no agency over their lives" over the course of many years — has directly contributed to the events of recent weeks.

Following the incidents, Australia has alleged that publicity surrounding these cases exacerbates the situation, but Ms Stubberfield maintains that the Australian people do not have a good picture of what is actually taking place in Manus Island and Nauru due to a continued media blackout.

"What we [UNHCR] really see on our monitoring missions is that people live in poor physical conditions, they're overcrowded, they don't have access to basic services ... they're not getting the support they need," she said.

"I think rather than detract from that, in terms of speaking about the impact of publicity, we need to speak about the reality of the immense damage done by the current offshore detention and processing policies."

But asked where offshore refugees could be moved, given the response of the Australian government and the upcoming election season, Ms Stubberfield said the UNHCR doesn't prescribe suitable locations, it only prescribes suitable conditions.

"That's a matter for the government concerned ... in this case, the Australian Government."

<http://www.abc.net.au/news/2016-05-05/unhcr-presses-for-transfer-of-refugees-out-of-detention-centres/7385748>

19. Manus Island detainees launch High Court bid to be moved to Australia

ABC News Online

Exclusive by the National Reporting Team's Natasha Robinson and Sam Clark

First posted Wed 4 May 2016, 1:24pm

Updated Wed 4 May 2016, 2:44pm

More than 700 asylum seekers held on Manus Island have launched legal action calling on the Federal Government to immediately move them to Australia.

The application for an urgent injunction was filed with the High Court on Wednesday by human rights barrister Jay Williams.

It follows last week's decision in the Papua New Guinea Supreme Court which ruled that the Manus Island detention centre breached the country's constitution.

The group of 757 asylum seekers is also seeking an order from the court preventing the Australian Government from moving them to Nauru.

The group allege that both the Australian and PNG governments have committed "gross" human rights breaches including forcible detention, torture and degrading treatment and false imprisonment.

A solicitor for the group, Mathew Byrnes, also called for a royal commission into the operation of the Manus Island centre.

"In addition to the orders being sought from the High Court in these applications, we are of the view that there is an urgent need for an inquiry or a royal commission in relation to the arrangements," Mr Byrnes said.

Mr Byrnes said any inquiry should be headed by retired High Court justice Michael Kirby.

The asylum seekers allege that following the Rudd government's announcement in July 2013 that no asylum seeker arriving by boat would be settled in Australia they were forcibly deported to Papua New Guinea by Australian Government officials working with their PNG counterparts.

They allege their detention on Manus Island constitutes arbitrary and indefinite detention under international law.

The group also allege the Australian Government's decision to detain them on Manus Island resulted in the murder of Reza Berati, who was killed during a riot at the centre in February 2014, as well as threats of death and cannibalism and instances of grievous bodily harm.

As part of their claim against the Federal Government, the group is seeking to be sent to Australia so that their refugee claims can be immediately assessed, as well as damages and legal costs.

A spokesperson for the Department of Immigration and Border Protection said the Department does not comment on matters that are before the courts.

<http://www.abc.net.au/news/2016-05-04/manus-island-asylum-seekers-launch-legal-action-to-be-moved/7383972>

20. Manus Island detainees launch high court bid to be moved to Australia

They allege Australia and Papua New Guinea governments have committed gross human rights violations, constituting 'crimes against humanity'

The Guardian

Ben Doherty and Helen Davidson

Wednesday 4 May 2016 19.45 AEST

More than 750 refugees and asylum seekers detained on Manus Island have taken their case to the high court of Australia, alleging crimes against humanity by the Papua New Guinea and Australian governments, and seeking an injunction for their immediate return to Australia.

Russell Byrnes Solicitors, along with human rights lawyer Jay Williams, lodged the action in the high court Wednesday on behalf of 757 of the 905 men currently held on the island, requesting they be brought back to Australia.

Some of the men have been in detention – declared illegal and unconstitutional by the PNG supreme court last week – for more than 1,000 days.

The Australian high court action alleges the PNG and Australian governments have committed gross human rights violations and international crimes, constituting “crimes against humanity”, including: forcible deportation; arbitrary and indefinite detention; and torture, inhuman and degrading treatment.

“In addition to the orders being sought from the high court in these applications, we are of the view that there is an urgent need for an inquiry or a royal commission in relation to the arrangements, events and conditions on Manus Island regional processing centre,” Mathew Byrnes, solicitor for the asylum seeker group, said.

Meanwhile, Australian and Papua New Guinea government officials have met to try to legalise the status of the Manus Island detention centre, in the wake of it being ruled unconstitutional and illegal last week by a court in Port Moresby. But a second court case before PNG’s supreme court may force Australia to pay tens of millions of dollars in compensation to the men illegally detained there.

The officials met on Tuesday to “work together on a roadmap that would ensure the Papua New Guinea government’s compliance with the court’s orders”, according to a statement from the Department of Immigration and Border Protection. The governments would keep meeting regularly to achieve that outcome, the statement said.

There appears little that can be done in order to make the detention centre meet PNG’s constitutional guarantee of the right to liberty of all persons.

The supreme court stated in its judgment last week that it had been “the joint efforts of the Australian and PNG governments” that brought the asylum seekers to PNG and kept them at the Manus Island processing centre “against their will”, and that their detention had been illegal from its inception.

A transition to an “open” detention centre – such as has been established on Nauru – seems impossible, because the Manus centre is housed within a PNG naval base, so refugees and asylum seekers could not come and go freely.

The regime on the island has not significantly altered since the court’s decision, and remains illegal.

While the PNG and Australian governments scramble to adapt detention to the 26 April ruling in a case brought by PNG opposition leader Belden Namah, the second court case in the country will hear claims for compensation for the men illegally detained.

The lawyer bringing the second case, Ben Lomai, told Guardian Australia the successful Namah challenged had established that the Manus Island detention regime was unconstitutional, breaching the “right to liberty” of those held within.

On Monday, PNG’s chief justice ordered Lomai’s case back before the supreme court on 16 May, where it is likely to be heard by the full bench.

Lomai said he would seek three orders: joining the Commonwealth of Australia to his case contesting the constitutionality of the men’s detention; releasing all the asylum seekers and refugees into the custody of Australia; and ordering all the men returned to Australia.

“Then we will seek ‘reasonable compensation’ for those men who have been illegally detained, and who are still illegally detained,” Lomai said.

<http://www.theguardian.com/australia-news/2016/may/04/manus-island-detainees-launch-high-court-bid-to-be-moved-to-australia>

21. High Court bid to move asylum seekers from PNG to Australia

The Age
May 4, 2016 - 6:59PM
Michael Gordon

A legal challenge seeking the transfer of asylum seekers from Manus Island to Australia will be heard in the third week of the campaign ahead of the July 2 double dissolution election.

A hearing for the High Court challenge has been set for May 23 after last week’s ruling in the Papua New Guinea Supreme Court that the Manus Island detention centre breached the country’s constitution.

In documents lodged on Wednesday, a group of 757 asylum seekers is also seeking an order from the court preventing the Australian government from moving them to Nauru.

The asylum seekers allege that both the Australian and PNG governments have committed gross human rights breaches, including forcible detention, torture and degrading treatment, and false imprisonment. The claim will be vigorously defended by the Turnbull government, which declined to comment.

A solicitor for the group, Mathew Byrnes, has also called for a royal commission on the operation of the Manus Island centre.

"In addition to the orders being sought from the High Court in these applications, we are of the view that there is an urgent need for an inquiry or a royal commission in relation to the arrangements," Mr Byrnes told the ABC.

The move came as Prime Minister Malcolm Turnbull repeated that the asylum seekers would not be resettled in Australia because this would be a green light to people smugglers. But Mr Turnbull told ABC radio: "The misery that many of those people are in, the mental anguish that many of them are in, is something that we sympathise with. We grieve for them."

In Parliament, Greens MP Adam Bandt asked if the government would consider changing the policy after two refugees set fire to themselves on Nauru. In reply, Immigration Minister Peter Dutton said no Australian wanted to see asylum seekers self-harming. "Equally, though, Australians don't want to see people drowning at sea," he said.

<http://www.theage.com.au/federal-politics/political-news/high-court-bid-to-move-asylum-seekers-from-png-to-australia-20160504-gomhb3.html>

22. High Court asked to declare Manus detention illegal as 859 detainees seek their day in court

The Conversation
Amy Maguire
May 5, 2016 12.06pm AEST

A writ of summons was registered in Australia's High Court on Wednesday on behalf of 859 detainees at the Manus Island detention centre. This is a class action initiated against Australia, Papua New Guinea, the two countries' immigration ministers, PNG's attorney-general and the companies that administer the centre.

The detainees want the High Court to use its original jurisdiction in judicial review of their transfer to and detention on Manus Island. They seek an injunction to prevent their removal to Nauru or elsewhere until the court hears the matter.

Recent background

This action follows the PNG Supreme Court finding that the detention on Manus Island is unconstitutional. The PNG Constitution contains a Charter of Rights that strictly limits the circumstances under which people may be deprived of liberty.

As Australia forcibly transferred the detainees, they were not responsible for their own unlawful entry to PNG. Therefore, no constitutional exception could permit their legal detention.

Following the Supreme Court decision, PNG Prime Minister Peter O'Neill announced the Manus Island centre would close. He asked Australia to "make alternative arrangements for the asylum seekers".

O'Neill's Australian counterpart, Malcolm Turnbull, said Australia would not accept the detainees. Australia's immigration minister, Peter Dutton, described them as PNG's responsibility.

Basis for the claim

The detainees argue their detention is illegal on international, constitutional, administrative and civil law grounds. They are asking the High Court to declare that their detention constitutes:

- forcible deportation, due to their expulsion from Australia and transfer to Manus Island, contrary to international law;
- arbitrary and indefinite detention, due to Australia's "no advantage" principle, in a country that lacks the legal safeguards or competence to adequately protect or process asylum seekers;
- torture (an international crime that can never be excused), inhumane and degrading treatment;
- rape and other crimes of sexual violence;
- denial of fundamental human rights, particularly a fair hearing and legal representation;
- murder (notably the violent killing of Reza Barati in February 2014), grievous bodily harm, assault and robbery; and
- unlawful death, false imprisonment, trespass and negligence.

What are the detainees seeking?

The detainees request relief via the ancient writ of habeas corpus. They want to be brought before the High Court so its judges can determine whether their detention is legal.

The detainees hope the court will then issue a writ of mandamus. This would order the government to bring them to Australia to process their refugee claims.

Finally, the detainees seek a writ of prohibition, to prevent their transfer to any other place until the case has been decided and their claims assessed.

The detainees are seeking damages and costs. They may also take action in PNG for compensation. A PNG legal representative of many detainees estimates that up to A\$1 billion could be owed.

This action echoes earlier high-profile claims, like the Tampa case. In such cases, human rights lawyers seek to vindicate the rights of asylum seekers who lack access to Australian courts due to their forcible offshore detention.

Other advocates have sought the aid of international courts. They argue Australia's actions against asylum seekers who seek to arrive here by boat inflict crimes against humanity.

The High Court will hear the application on May 23.

Australia's human rights problem

Around half of those detained on Manus Island have already been assessed to be genuine refugees. Yet most remain in detention, in part because their safety is at risk if they leave the centre.

The refugees would not face the same level of risk were they to be resettled in Australia. Yet PNG law has offered more substantial rights protection to them than Australian law.

The stark contrast between Australian and PNG law is in the relative degree of formal protection for human rights. Whereas PNG has a Charter of Rights enshrined in its Constitution, Australia lacks constitutional protection. Its government has rejected legislative protection for human rights.

Though Australia professes deep commitment to human rights standards in its foreign relations, it refrains from entrenching these international norms domestically. This position reflects a cultural attitude that the Australian "fair go" is sufficient protection against the excessive use of government power.

The experiences of Indigenous peoples in Australia before the law put the lie to this belief. And if adequate human rights protections are not the universal experience of people in Australia, what hope for asylum seekers who lack access to Australian courts and are demonised in public discourse?

Hope for success

The most recent High Court action challenging Australia's offshore detention arrangements in Nauru failed. The court found the government was acting in accordance with its constitutional and legislative powers.

However, the majority of judges did regard Australia as bearing at least some responsibility for the detention of asylum seekers in Nauru. This may undermine the government's argument that detainees on Manus Island are PNG's sole responsibility.

This new action's distinguishing feature is a request that the High Court use its universal jurisdiction for the first time. The detainees argue that Australia has no legal power to forcibly deport and arbitrarily and indefinitely detain asylum seekers in torturous, inhuman or degrading conditions without legal rights.

If the claim succeeds, it will entirely undermine Australia's inhumane practices in relation to "those who come across the seas".

---->>>> Amy Maguire thanks Jay Williams, barrister-at-law of Frederick Jordan Chambers, for providing the original writ of summons used to initiate this action in the High Court.

<http://theconversation.com/high-court-asked-to-declare-manus-detention-illegal-as-859-detainees-seek-their-day-in-court-58880>

23. Manus Island: Australian and PNG officials meet to develop 'roadmap' to close centre

ABC News Online

Posted Wed 4 May 2016, 8:31am

The Australian and Papua New Guinea Governments say they will work out a "road map" to comply with a court decision ruling offshore detention of asylum seekers is illegal.

The Papua New Guinea Supreme Court ruled last week that detaining men on Manus Island breached PNG's constitution.

The Supreme Court ordered the Australian and PNG Governments to take all necessary steps to end the detention forthwith.

Australian officials are in Port Moresby this week and both Governments released a statement saying they would continue to work together and continue to meet regularly to discuss compliance with the court order.

About 850 men remain in a detention centre on Manus Island and a further 60 are in transit accommodation in the main town.

<http://www.abc.net.au/news/2016-05-04/manus-australia-and-png-to-develop-roadmap-to-close-centre/7382456>

24. Papua New Guinea 'must tell UN its plan' for closing Manus detention centre

Human Rights Watch's call comes ahead of PNG's appearance before the UN human rights council and after the country's supreme court ruled the centre illegal

The Guardian

Helen Davidson

Thursday 5 May 2016 12.43 AEST

Papua New Guinea must present a plan and timetable for closing the Manus Island detention centre during its appearance before the UN human rights council on Friday, Human Rights Watch has said.

It comes as Spanish construction firm, Ferrovial, announces it has completed the 75% buyout of Broadspectrum, the Australian company contracted to run the offshore immigration facility, plus another on Nauru. Ferrovial does not intend to continue running the two centres.

Human Rights Watch (HRW) on Thursday said Papua New Guinea's upcoming universal periodic review at the UNHRC was an opportune moment for the country to explain how it intends to implement its supreme court's decision.

Last week the PNG supreme court found the detention of asylum seekers to be unconstitutional and illegal, and ordered PNG and Australia to "forthwith" act to end the incarceration.

The following day PNG prime minister, Peter O'Neill, announced the centre would close and requested Australia find alternative arrangements for the detainees. The Australian government rejected the detainees were its responsibility, and the two countries remained at an impasse. Talks between Australian and PNG officials began this week, but no plans have been announced.

"To comply with its own court ruling, PNG should take steps immediately to close the Manus detention centre once and for all," said Elaine Pearson, Australia director at Human Rights Watch.

"PNG should make arrangements to send asylum seekers and refugees to Australia or third countries with capacity to settle refugees safely and with dignity."

There are about 900 detainee men on Manus Island, around half of whom had been granted refugee status. However the controversial determination process saw a much lower rate of refugee claims approved than on Nauru, and also granted refugee status to people who had not applied for it.

The centre, which sits in a naval base near Lorengau, is run by Broadspectrum, formerly Transfield Services. The company is currently the target of legal action by a number of detainees, and Ferrovial has been warned by the campaign group, No Business in Abuse, it could face legal action if it took over the centres.

Ferrovial said on Wednesday it had so far received acceptances on its offer for 75% of Broadspectrum shares. The offer period runs until 13 May. A temporary trading halt had been placed on Broadspectrum shares in the midst of the supreme court ruling fallout.

Last week it announced the detention centre services did not form a core part of its valuation and acquisition rationale and they were "not a strategic activity in Ferrovial's portfolio".

HRW also called on PNG's officials to show what efforts had been made to address concerns about human rights abuses which were raised at its last universal periodic review in 2011.

Despite pledging wide-ranging reforms at the time, PNG continues to lag in many areas. It remains among the worst places in the world for violence against women and children, police brutality continues with more than 1,600 complaints made in the seven years to 2014, and anti-domestic violence legislation has not been implemented, despite passing in 2013.

Abortion remains illegal in the country, and one couple was sentenced to five years' jail in October.

"Over the last four years, we've seen no practical improvement in justice for violence against women," Pearson said. "Countries need to press PNG to decriminalise abortion and implement the Family Protection Act without delay."

Australia's universal periodic review last November saw more than 100 countries line up to criticise its record on human rights. The issue of asylum seekers dominated the concerns from international representatives, who – because there were so many – had just 65 seconds each to speak.

The president of the the Australian human rights commission, Professor Gillian Triggs, has told Senate estimates on Wednesday that asylum seekers and refugees on Manus Island and Nauru should be moved to a "safer place".

"Our position at the AHRC is that because of the prolonged detention on these two islands, the failure to provide a durable solution or settlement, coupled with the particularly poor and dangerous conditions, means that they must be moved to a safer place for settlement," Triggs told an estimates hearing this morning.

<http://www.theguardian.com/australia-news/2016/may/05/papua-new-guinea-must-tell-un-its-plan-for-closing-manus-detention-centre>

25. Papua New Guinea tells UN it accepts court decision on Manus Island illegality

Human rights council assessment meeting advised that arrangements are being made for the 905 men still under detention

The Guardian
Ben Doherty
Saturday 7 May 2016 12.11 AEST

Papua New Guinea has told the United Nations it accepts a court decision that the Australian-run detention centre on Manus Island is illegal, and is working to make "appropriate arrangements" for the men detained within.

Overnight on Friday, Papua New Guinea appeared before the Universal Periodic Review, a human rights council assessment where countries publicly critique other states' human rights records.

PNG's deputy permanent representative to the United Nations, Fred Sarufa, told the UPR hearing that PNG accepted the current detention regime was illegal and would be ended.

"Indeed, the PNG supreme court has made a ruling on that centre in Manus where asylum seekers are processed. We are working with the government of Australia on appropriate arrangements in recognition of the decisions of the supreme court of PNG."

The full bench of the PNG supreme court ruled on April 26 that the detention regime breached the detainees' fundamental right to liberty, ordering "both the Australia and Papua New Guinea governments ... [to] take all steps necessary to cease and prevent the continued unconstitutional and illegal detention".

Eleven days since the ruling, the 905 men held on Manus remain in illegal detention.

The PNG prime minister, Peter O'Neill, who has previously said he wants the detention centre closed, described it as a "problem" that has "damaged" the country. He said Australia bore responsibility for the 905 men held within. Australia says the men are PNG's responsibility.

The centre has been controversial since it reopened in 2012. One asylum seeker was murdered by guards, another died of a treatable infection, while others have been shot, had their throats slit, been raped and assaulted, or suffered because of a lack of adequate physical and mental health care.

Only a handful of countries raised the issue of the Manus detention centre during PNG's UPR session.

Fiji, which has previously criticised offshore detention as Australia "using its economic muscle" to bully smaller countries in the region into shouldering its responsibilities, said the supreme court had ruled the men held on Manus "must be released".

“Fiji recommends that the decision be implemented without undue delay and in accordance with the primacy of the human rights of those detained.”

Sweden said PNG must “end indefinite mandatory detention of asylum seekers”.

And Mexico recommended that PNG should revise all of its laws around detaining migrants and asylum seekers in order to safeguard their human rights.

Australia did not raise the issue with PNG.

The bulk of PNG’s UPR session was dedicated to addressing issues around family and gender-based violence, abuses by law-enforcement officers, and the rights of LGBTI people (the PNG criminal code criminalises sex “against the order of nature”, which has been interpreted to apply to same-sex relationships).

Several countries raised the issue of the death penalty in PNG, calling on the country to impose a moratorium on capital punishment. PNG has not executed anybody since 1954, but the punishment remains legally active.

Sarufa told the UPR session that PNG would not be swayed by international pressure to end the practice.

“The death penalty under international law is not illegal. And for Papua New Guinea, the death penalty is part of our penal code. On the issue of a moratorium that has been proposed by a number of delegations, this is a sensitive issue, and ... under the UN charter, each and every country has sovereign right to make decisions in its own national interest.

“We have a law that prescribes the death penalty as part and parcel of our judicial system. And until and unless the appropriate authority which is the national parliament of Papua New Guinea decides, based on the sentiments of Papua New Guineans, we still have, in our penal code, the death penalty.”

The Australia director of Human Rights Watch, Elaine Pearson, said countries consistently raised with PNG the issue of violence against women, especially domestic violence.

“Countries welcomed PNG’s progress in passing the Family Protection Act, but governments are clearly concerned that the levels of violence remain alarmingly high and victims are still not obtaining justice or the services they desperately need.”

<http://www.theguardian.com/australia-news/2016/may/07/papua-new-guinea-tells-un-it-accepts-court-decision-on-manus-island-illegality>