

Project SafeCom News and Updates

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1. Australia's 'inconsistent approach' to human rights could jeopardise UN seat bid, Amnesty warns
2. Abdul Karim Hekmat: Hazara refugee Nabi Zaher's citizenship fight
3. 'Draconian and dangerous': Despair over fresh crackdown on asylum seekers
4. Asylum seekers' applications doomed to fail after visa deadline changes, says refugee support service
5. Dengue fever outbreak on Nauru threatens health system
6. Outcry after Sydney doctor faced with deportation over autistic child
7. Backflip on deportation of Sydney doctor with autistic child welcomed
8. Nauru, Manus transfers to US to start in 'a couple of months', says Peter Dutton
10. Michael Gordon: Peter Dutton's reckless comments could put US deal at risk
11. Refugee resettlement deal between Australia, US 'not a people swap', Peter Dutton says
12. Q&A: George Brandis defends Manus, Nauru refugee deal with United States
13. Most agree, keeping refugees on Manus and Nauru is cruel: pollster
14. Finding jobs faster for new refugees a 'triple win' for Australia, report finds
15. Child abuse inquiry to hold limited public hearings into offshore detention regime
16. Vietnamese asylum seeker returned by Australia says 'a bullet would be better'
17. Indonesian teen Ali Jasmin appeals people smuggling conviction, court finds age testing was unreliable
18. Boys accused of people smuggling held in adult jails, argues class action against Australian Government
19. Witnesses to Reza Barati's murder in fear after killer escapes from jail

1. Australia's 'inconsistent approach' to human rights could jeopardise UN seat bid, Amnesty warns

Human rights organisation criticises government for refusal to condemn Trump, treatment of refugees and reported abuses of Indigenous children in detention

The Guardian

Calla Wahlquist

Wednesday 22 February 2017 11.35 AEDT

The head of Amnesty International in Australia has criticised Australia's "inconsistent approach" to human rights, saying it could damage the country's bid for a seat on the United Nations human rights council.

Amnesty International Australia's national director, Claire Mallinson, said the Turnbull government's refusal to criticise comments by Donald Trump made positive moves like the recent decision to ratify the optional protocol against torture "ring hollow".

"One moment it is saying absolutely nothing when the leader of the free world is talking about waterboarding, and the next it is saying, 'yes, we want to ensure that torture will not happen on our shores'," Mallinson told Guardian Australia.

"I don't believe that is what the Australian public wants to see from its leaders."

Mallinson made the comments ahead of the release of the 2017/17 State of the World's Human Rights report on Wednesday, which criticised Australia for its continued use of offshore immigration detention and for the reported abuses of Indigenous children in youth justice facilities, including abuses at the Northern Territory's Don Dale detention centre that prompted a royal commission.

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Mallinson made the comments ahead of the release of the 2017/17 State of the World's Human Rights report on Wednesday, which criticised Australia for its continued use of offshore immigration detention and for the reported abuses of Indigenous children in youth justice facilities, including abuses at the Northern Territory's Don Dale detention centre that prompted a royal commission.

As of 30 November there were 383 people held in indefinite detention on Nauru, including 44 children and 49 woman, and around 900 men in detention on Manus Island, despite the Papua New Guinea supreme court ruling their detention unlawful.

Mallinson said the refugee resettlement deal struck with the United States in November was "in essence government acknowledging that this is an unsustainable situation".

But she said doubt cast on the deal by Trump, who called it a "dumb deal", had caused further distress to those awaiting resettlement.

"The reality is the government could end this tomorrow," she said. "It could put all of these people on a plane and resettle them in Australia and end their misery, rather than effectively being held hostage as a deterrent. They could do that today, they don't have to wait for the US, or Canada, or New Zealand."

Mallinson said 2016 had seen the rise of an "us versus them rhetoric" in global politics, which could lead to further human rights abuses.

"Especially if it comes from the leader of the free world, it gives other countries a bit of licence to then persecute and discriminate," she said.

The Amnesty International secretary general, Salil Shetty, writing in the foreword of the report, said 2016 had been a year of "unrelenting misery and fear" for millions, highlighting the bombing of Aleppo, increased persecution of the Rohingya people in Myanmar, and unlawful killings in South Sudan.

Shetty said the gap between rhetoric and action, particularly on the refugee crisis, was "staggering".

He said the election of Trump was a "seismic event," and that the US president's current foreign policy direction could "usher in a new era of greater instability and mutual suspicion".

"The reality is that we begin 2017 in a deeply unstable world full of trepidation and uncertainty about the future ... It has become alarmingly easy to paint a dystopian picture of the world and its future."

The report also criticised Australia for its continued over-incarceration of Aboriginal and Torres Strait Islander peoples, who are 15 times more likely to be jailed than non-Indigenous Australians.

Aboriginal and Torres Strait Islander children are 24 times more likely to be jailed than their non-Indigenous peers, and in 2016 every state except Tasmania jailed children as young as 10 or 11, contrary to the international convention on the rights of the child which states the minimum age of criminal culpability should be 12.

Mallinson said Australia needed to implement a consistent, federally led strategy to reduce incarceration, rather than allowing a piecemeal approach.

“There are some fantastic prevention and support programs across Australia, but they are living hand to mouth,” she said. “They have good results and then suddenly they get their funding pulled.”

<https://www.theguardian.com/australia-news/2017/feb/22/australias-inconsistent-approach-to-human-rights-could-jeopardise-un-seat-bid-amnesty-warns>

2. Abdul Karim Hekmat: Hazara refugee Nabi Zaher’s citizenship fight

The case of a Hazara refugee whose Australian citizenship was arbitrarily delayed and vexatiously questioned serves to highlight the Department of Immigration’s continued administrative bungling.

The Saturday Paper
FEB 25, 2017
Abdul Karim Hekmat

For eight months, Nabi Zaher waited for news of his citizenship ceremony. Nabi lives in Wollongong, a 90-minute drive south of Sydney. A Hazara refugee, he had passed the citizenship test on January 24, 2015. Two weeks later, he received an approval letter from the Department of Immigration and Border Protection and was told to wait for his citizenship ceremony, the final stage of becoming an Australian citizen. His wife, who had applied at the same time as he had, received her citizenship in June 2015.

Since then, Nabi has frequently checked his mailbox. On September 16, 2015, Nabi received a letter from the Department of Immigration and Border Protection. On opening the mail, he was excited, thinking it must be good news. But excitement turned into disbelief and shock as he read the letter, which was laced with legal terms such as “court proceeding”, “bogus” and “fraud”. The letter said Nabi had provided false documents as part of his citizenship application and his passport was “fraudulently altered”. He was given 90 days from the date of the notice to “institute proceedings against the Commonwealth in a court of competent jurisdiction” or to “recover the document/s; or seek a declaration that the document is not forfeited”.

At first he thought the department must have made a mistake, sending a letter intended for someone else. “I was very shocked. It was hard to digest the allegation that I had ‘fraudulently altered’ my passport,” Nabi told The Saturday Paper. “This was an original Afghan passport I had obtained from Kabul. I had travelled to a number of countries with this passport and had a US visa on it which was issued after a thorough investigation. If anything was wrong with my passport, they would not have issued a visa.”

Within an hour of opening the letter, Nabi wrote an email to the department. He explained that he did not accept the department’s assessment. But there was no response from the department. He got worried. He consulted Legal Aid, which advised him it was serious. His citizenship application could be rejected and then his permanent visa would be revoked by the department on character grounds. He would then be detained and likely deported. “I was not so concerned about myself,” he said, “but about my two children, whose names had been included in my citizenship application.”

Nabi was not a boat arrival. He arrived by plane as a United Nations High Commissioner for Refugees (UNHCR) accepted refugee about seven years ago. He had all the documents with him, including letters from his former employers. He would not have left Afghanistan if there were no threat to his life. He had a good and well-paid job, working as a senior program manager with the National Democratic Institute (NDI), a US non-profit.

FULL STORY AT <https://www.thesaturdaypaper.com.au/news/politics/2017/02/25/hazara-refugee-nabi-zahers-citizenship-fight/14879412004272>

3. 'Draconian and dangerous': Despair over fresh crackdown on asylum seekers

Canberra Times
February 26 2017 - 12:15AM
Michael Koziol

Asylum seekers have been told they will lose their welfare payments, bridging visas and right to seek asylum unless they urgently submit applications for protection, as the Turnbull government cracks down on the "legacy caseload" of boat arrivals.

The Department of Immigration has begun issuing warning notices to hundreds of the approximately 12,000 asylum seekers in the community who came to Australia by boat prior to July 2013 but are yet to make applications for refugee status.

They are being given 60 days to apply, including all necessary documentation, with some who have already missed the deadline being told their support payments have been suspended and they now face losing their ability to claim asylum.

Immigration lawyers and refugee advocates are in despair over the crackdown, arguing it has created a rush on legal services and is leaving some asylum seekers unable to submit their application or forcing them to apply without legal help.

David Manne, executive director of the Melbourne-based Refugee Legal, said it was a "draconian and potentially very dangerous" move that could see asylum seekers deported to a place of persecution without ever having had their claims heard.

"It's causing another wave of trauma and suffering," he said. "It has sent shockwaves through a community that has been left in terrible limbo for years."

The legacy caseload of asylum seekers refers to a contingent of about 24,500 people who arrived before the then Labor government changed the rules in 2013 to prohibit any asylum seeker who came by boat from ever resettling in Australia.

In 2015, the government began allowing the legacy caseload to lodge asylum claims, but did not finish lifting the "bar" for all groups until late last year.

Under the "fast-track" process, claimants must present all supporting documentation up-front and have limited redress if their applications are rejected.

The application forms amount to some 62 pages, including 184 questions plus a detailed written statement, often necessitating legal and lingual help.

"They're forcing people to lodge a very complicated set of documents which relates to their refugee claim without assistance," said Melinda Jackson, principal solicitor at the Asylum Seeker Resource Centre.

"It's fundamentally unfair. It really is a denial of their basic rights."

Legal aid groups, including the Refugee Advice and Casework Service in Sydney and the Refugee and Immigration Legal Service in Brisbane, have added extra resources to deal with the crackdown, but say their waiting lists are still in the thousands.

Fairfax Media understands a change in policy late last year means the government will no longer accept being on a waiting list as an excuse for failure to lodge an asylum claim.

"They've had pressure to get lodgments up," Ms Jackson said following a teleconference with department officials on Thursday. "Their message is there has been a policy shift [and] it's no longer okay to say you're on a wait list to receive legal assistance."

Asylum seekers who failed to respond to the 60-day warning are now being told their payments are being ceased and that if they do not apply in 14 days, Immigration Minister Peter Dutton may rescind their right to make an asylum claim in Australia.

"We will also consider not granting you another bridging visa," says the letter, seen by Fairfax Media. "This will mean you will be an unlawful non-citizen. You will lose access to Medicare and permission to work in Australia."

Asylum seekers would then be expected to leave the country or face deportation. Ms Jackson said the letters had made asylum seekers "very distressed and anxious", and in some cases they had threatened self-harm.

A spokesman for Mr Dutton confirmed letters to the cohort – dubbed illegal maritime arrivals – had been dispatched and that "failure to apply may affect some of the support services they receive".

The legacy caseload was a result of Labor's failure to protect the country's borders while in government, he said.

<http://www.canberratimes.com.au/federal-politics/political-news/draconian-and-dangerous-despair-over-fresh-crackdown-on-asylum-seekers-20170223-guk3of.html>

4. Asylum seekers' applications doomed to fail after visa deadline changes, says refugee support service

ABC News Online

By Chloe Hart

Sunday February 26, 2017

The Immigration Department has cut the length of time asylum seekers have to apply for protection visas from one year to 60 days which could deny up to 11,000 people the ability to claim asylum.

Those waiting for a lawyer to help them with their visa application have received letters from the department informing them of the new deadline.

The change could result in many losing their right to protection or bridging visas as well as their right to work and access health and welfare services.

The shortened deadline has been described by The Refugee Advice and Casework Service (RACS) as "underhanded", saying it was "neglecting" some of the most persecuted people in the world.

In 2013 the Federal Government cut funding for immigration and legal assistance for people who arrive by boat and plane and in response RACS drop-in centres were set up to fill the gap.

Lawyers at the centres offer pro-bono assistance on thousands of applications.

"RACS has been providing free legal service to people through night-time clinics run by volunteers and we have a massive waiting list of currently 1,800 people [in Sydney] waiting up to one year for assistance," said RACS executive director Tanya Jackson-Vaughan.

"We were promised by the Department of Immigration that people on our waiting list wouldn't be threatened or coerced in anyway to apply without legal assistance.

"We have people fleeing places like Afghanistan, Syria, Iraq — cities that have been destroyed, places we see in the news every day where women are raped, men are tortured. We know what they are fleeing from. We see it daily."

Applications filled in without legal help doomed: lawyers

About 11,000 people are waiting to apply and have been sent letters explaining that if they do not apply within two months their status resolution support service payments will be cut, Ms Jackson-Vaughan said.

"[It is] ultimately their bridging visa which then endangers their right to seek asylum [and] their right to work and health care," she said.

"We have young families with children in this situation who will end up starving and homeless .

Lawyers say most applicants do not speak English and if the applications are rushed or filled in without legal assistance they are doomed to fail.

"The forms are in English and require you to list everywhere you have ever lived and worked, why you fled your country and why you fear persecution.

These are legal definitions and hard to explain in your own language let alone [something other than] English," Ms Jackson-Vaughan said.

"Expecting people who have no legal background [and] are often traumatised and have memory deprivation [to do this]... it's unreasonable, and too challenging when it takes a lawyer 10 to 15 hours to assist one person."

Decision detrimental to the already vulnerable: RACS

RACS is calling for the Government to stop sending the letters and comply with its promise to give people the right to seek asylum and welfare payments.

The Refugee Council of Australia said further discrimination against asylum seekers could prove dire.

"It's a tragedy ad hoc decisions are being made by the Turnbull Government, we don't know what will happen to these very vulnerable people who've been kept trapped in limbo for many years now," said council spokesman Tim O'Connor.

"We've seen high rates of suicide among this group and we are very concerned these latest decisions the Turnbull Government has made will increase that psychological duress these people are under and that suicide rate may increase as a result.

"It's particularly cruel the Turnbull Government is again changing the rules.

There needs to be a process but this process has been clear and now it's being changed again.

In a written statement the Immigration Department said "resolving the status of illegal maritime arrivals in Australia is a key priority and all legacy cases have been invited to apply for temporary protection visas (TPV) or safe haven enterprise visas (SHEV)".

"Letters are being sent to those who have not made an application for either a TPV or SHEV and failure to apply may affect some of the support services they receive."

But RACS says the Government's demands were unrealistic and its service was at breaking point.

"[The staff] are now at their wits' end — we don't know how we will manage the people waiting for our assistance by the deadline of November 2017."

<http://www.abc.net.au/news/2017-02-26/asylum-seekers-issued-with-new-deadline-for-visa-applications/8304766>

5. Dengue fever outbreak on Nauru threatens health system

Crisis meeting called after at least 70 known cases of the viral disease are reported, including at least 10 asylum seekers and refugees held by Australia

The Guardian
Paul Farrell
Saturday 25 February 2017 11.45 AEDT

Nauru and Australian immigration officials have called a crisis meeting as a major dengue fever outbreak threatens to overwhelm the Pacific island nation's public health system.

Guardian Australia understands there are now at least 70 known cases of dengue on Nauru, including at least 10 asylum seekers and refugees held on the island by Australia.

Dengue fever is a mosquito-borne viral disease that can become life-threatening in acute cases.

Guardian Australia understands a meeting will be held on Saturday between officials of the Australian Border Force and the Nauruan government, Nauru hospital staff, and staff from International Health and Medical Services (IHMS).

Officials from the World Health Organisation are also on the island assisting the Nauruan government, which is struggling to cope with the increasing number of cases. The Nauruan hospital has limited supplies and infrastructure to manage the surge in cases.

The Australian government has already medivaced one asylum seeker suffering from an acute case of dengue to Pindara hospital in the Gold Coast on Tuesday.

The Nauruan hospital was unprepared for the outbreak, and Guardian Australia understands it has no testing kits for the disease.

The only testing kits on the island are held by IHMS, which is contracted by Australia to provide healthcare services to asylum seekers at the Nauru detention centre.

<https://www.theguardian.com/world/2017/feb/25/dengue-fever-outbreak-on-nauru-threatens-health-system>

6. Outcry after Sydney doctor faced with deportation over autistic child

Medical fraternity calls immigration department decision 'reprehensible' after western Sydney GP Nasrin Haque is told she must leave or be deported

The Guardian
Ben Doherty and Christopher Knaus
Thursday 23 February 2017 19.06 AEDT

The immigration department's decision to refuse a visa to a Sydney doctor because her daughter is autistic has been condemned by the medical fraternity as "disgusting" and "reprehensible".

Dr Nasrin Haque – who has lived with her children in Australia for eight years and whose sister, brother, and parents are all Australian citizens – has been given until Friday to present to the immigration department with plane tickets to prove she and her daughter are leaving the country.

If she fails to do so, she faces deportation.

The New South Wales president of the Australian Medical Association, Prof Brad Frankum, said the government's actions were "reprehensible". The chief executive of Autism Awareness Australia, Nicole Rogerson, said the family's treatment carried a "disgusting undertone".

Haque, originally from Bangladesh and who has lived previously in Hungary, practises as a GP in Windsor and Pitt Town, in Sydney's west. She is the primary carer for her 15-year-old daughter Sumaya.

Haque's application for permanent residency in Australia was rejected because Sumaya's medical condition – described as a "mild to moderate" developmental delay – was viewed as a burden on Australia.

The administrative appeals tribunal acknowledged Haque was a "valuable asset" to her community, but said Sumaya's condition meant she failed the visa health requirement and would be too great an impost on the Australian taxpayer.

The government's so-called 'one-fails, all-fail' visa criteria for family applications means Haque and her daughter, as well as Haque's 14-year-old son Sakir Bhuiyan, face deportation to Hungary, a country the teenagers left as children and whose language they don't speak.

Only the immigration minister Peter Dutton, or his assistant minister Alex Hawke, have the power to halt the family's removal from Australia. The Department of Immigration and Border Protection wrote to the family in January saying Hawke had "personally considered your case and decided it would not be in the public interest to intervene".

The powers vested in the minister and his assistant are "non-compellable" – meaning they cannot be forced to make a decision – and "non-delegable" – meaning the decision cannot be assigned elsewhere, to a public servant or another decision-making body. The department has said previously the powers are used only rarely, and only in "unique and exceptional circumstances".

A department spokesman said assistant immigration minister, Alex Hawke, would only intervene if he thought it was "in the public interest to do so".

"The minister cannot be compelled to exercise his powers and he is not required to explain his decisions on any case," the spokesman said in a statement.

"The minister only intervenes in a relatively small number of cases which present unique and exceptional circumstances."

In a change.org petition to Dutton, Haque pleaded with the minister to reconsider her case, saying it would devastate her family. She said her daughter was not a burden on the Australian taxpayer.

"Although she does attend a special school, she has not received any other support from the state during her eight years in Australia. Sumaya is an independent young girl with strong computer skills and manages all activities of daily living on her own. My full-time position as a GP allows me to financially support my family without assistance from the Australian state."

Haque said she had extensive family support in Australia, and that her children had close relationships with their aunts, uncles, and grandparents, all Australian citizens.

"If we are deported back to Hungary, we will not be able to function. Deportation would tear our family apart, and destroy my children's chances of completing their education and becoming productive members of society."

Frankum said Haque's children had spent more than half of their lives in Australia, but had now been ordered to leave.

"The fact that an Australian resident of eight years, whose parents and siblings live here, can be faced with deportation due to illness is reprehensible."

Frankum said the decision to refuse Sumaya's visa, separating her from her extended family, because of her medical condition, was one of "immense callousness".

"It's adding insult to injury that the assistant immigration minister, Alex Hawke, has already dismissed Dr Haque's bid to remain in Australia as not being in the public interest. I would suggest her patients would argue with that."

"I would further suggest that Dr Haque being able to stay and offer continuity of care to her community is of immense public interest," Frankum said.

Rogerson said the family's treatment suggested those with a disability were simply a burden, with nothing to contribute to the community. She said the policy raised serious questions about how the government viewed disability."

"From our point of view, it's just so disgusting, the undertone in this message. The message is you are a skilled migrant, you are a doctor ... but the minute you've got disability in your family, whoopsie, you're out," Rogerson said.

"By merely deporting her family because she has a disability, think about what that does to her family, think about what it does to people's view of disability."

Rogerson described the policy as heartless, harsh, and unfair.

<https://www.theguardian.com/australia-news/2017/feb/23/outcry-after-sydney-doctor-faced-with-deportation-over-autistic-child>

7. Backflip on deportation of Sydney doctor with autistic child welcomed

Permanent resident visa to be granted to Nasrin Haque and her daughter after assistant immigration minister intervenes

The Guardian
Australian Associated Press
Saturday 25 February 2017 14.58 AEDT

A 16-year-old girl with autism, whose application for permanent Australian residency was allegedly rejected over her "moderate developmental delay", has been spared imminent deportation.

Sydney schoolgirl Sumaya Bhuiyan has autism spectrum disorder and, according to the Australian Medical Association, her application in 2013 for permanent residency was rejected as her condition was considered "too burdensome" for taxpayers.

Sumaya, the daughter of GP Nasrin Haque, has lived in Australia for eight years.

But on Friday, a day after the AMA New South Wales president, Professor Brad Frankum, publicly condemned the decision, the assistant immigration minister, Alex Hawke, called Sumaya's mother and said he would intervene.

It was the same day Haque had to book plane tickets out of the country and show them to the immigration department, it is learnt.

"The minister has decided to grant Sumaya a permanent resident visa and has begun consideration of permanent resident visas for Dr Haque and her son, subject to the usual health and character checks," a spokesman said.

Frankum welcomed the backflip as "the only humane and decent decision".

"For this girl's welfare and for the whole family, I think, this is the only outcome that was going to be the right one," he said.

"I lament the fact that it ever got this point but at least the right thing has happened eventually."

<https://www.theguardian.com/australia-news/2017/feb/25/backflip-on-deportation-of-sydney-doctor-with-autistic-child-welcomed>

8. Nauru, Manus transfers to US to start in 'a couple of months', says Peter Dutton

Canberra Times
February 22 2017 - 9:32AM
Michael Koziol

Immigration Minister Peter Dutton expects refugees at Australia's offshore processing centres on Manus Island and Nauru to be resettled in the United States within "a couple of months", but concedes the US may take less than the 1250 it indicated.

Mr Dutton has also confirmed for the first time that the deal was a "quid pro quo", insisting that Australia would only fulfil its pledge to take Central American refugees if the US holds up its end of the bargain.

The arrangement with the US to accept refugees who tried to reach Australia by boat – a deal struck by the Turnbull government with the Obama administration – has been subject to a great deal of doubt under US President Donald Trump and his commitment to "extreme vetting".

But Mr Dutton said he was confident Australia could take Mr Trump at his word and expected transfers to start within the next "couple" of months, sooner than the six to 12 months that had been suggested by some on the islands.

"All of the signs indicate the [US] officials are working well. It's the case that we take the US at its word. We appreciate the support of President Trump to continue the arrangement," he told Sky News on Tuesday.

Asked by host Andrew Bolt when people would commence resettlement in the US, Mr Dutton said: "I think we'll have movement in the not too distant future ... in the next couple of months."

Despite agreeing to honour the arrangement to take up to 1250 refugees, Mr Trump has promised to subject every person to "extreme vetting", which refugee advocates have suggested could be used to restrict the numbers.

Mr Dutton told Sky News the US would take "1200 or whatever it turns out to be".

He also conceded the deal could be characterised as a "quid pro quo" arrangement, referring to the Turnbull government's promise to accept a cohort of Central American refugees currently awaiting resettlement in camps in Costa Rica.

"It wasn't a people swap deal if that's the language people want to use [but] I don't have any problem with that characterisation if people want to put that," he said. "It was beneficial to us and it was beneficial to US."

However, Mr Dutton indicated Australia would not be prepared to take any of the Central American refugees until transfers had begun from Manus Island and Nauru. He said he wanted to avoid a replay of the so-called Malaysian solution, in which Labor took in 4000 refugees from that country but was left unable to send 800 refugees in return.

"We're not going to be sucked in to that sort of a silly outcome," Mr Dutton told Sky News. "We wouldn't take anyone until we had assurances that people were going to go off Nauru and Manus."

Mr Dutton and Prime Minister Malcolm Turnbull have repeatedly and explicitly rejected suggestions there was a people swap arrangement since the Costa Rica offer was formally made late in 2016.

Labor's immigration spokesman Richard Marles said "clearly this was a deal" and accused the government of playing politics and being misleading about the nature of the resettlement arrangement.

"Quid pro quo. One for the other. That is what happened last year. That is evidently what occurred and yet we've had a government that has been denying that from day one. This is a government that has lacked transparency across the board since it was elected in 2013," Mr Marles told Sky News.

If transfers do begin shortly, it will be in advance of the timetable indicated by sources on Manus Island and Nauru. US officials have conducted interviews on both islands and, according to some refugees, were telling applicants the process could take six to 12 months.

Following a tense phone call with Prime Minister Malcolm Turnbull, Mr Trump pledged to review the "dumb deal" to take Australia's refugees, but later recanted and said he would honour his predecessor's arrangement.

Foreign Affairs Minister Julie Bishop is in Washington to meet with Vice-President Mike Pence and Secretary of State Rex Tillerson. But Mr Dutton said there would be no need to discuss the refugee deal "in great detail" because it was already locked down.

<http://www.canberratimes.com.au/federal-politics/political-news/nauru-manus-transfers-to-us-to-start-in-a-couple-of-months-says-peter-dutton-20170221-gui5s2.html>

9. Julie Bishop and Peter Dutton at odds over US refugee deal 'people swap'

Immigration minister links Australia's Costa Rica refugee commitment to US resettlement deal for people on Manus Island and Nauru

The Guardian

Paul Karp

Wednesday 22 February 2017 10.19 AEDT

Peter Dutton and Julie Bishop are publicly at odds over whether arrangements for Australia to take refugees in Costa Rica in return for the United States resettlement deal constitutes a "refugee swap".

In comments to Sky News on Tuesday evening, the immigration minister conceded for the first time that the two were linked, warning Australia will not take refugees in Costa Rica until the US takes refugees as part of its resettlement of up to 1,250 people held on Manus Island and Nauru.

Although Dutton denied the arrangement amounted to “a people swap deal” he conceded: “I don’t have any problem with that characterisation if people want to put that.”

Speaking in Washington on Wednesday Australian-time after meeting US vice-president Mike Pence, Bishop denied the arrangements amounted to a “people swap” deal.

Asked about the risk the US might use “extreme vetting” to refuse to take refugees, the foreign minister said the deal always allowed the US “consideration of those they wish to resettle”.

Bishop said Australia and the US were both generous nations when it came to refugee resettlement and she is sure the US would continue to be so.

The foreign minister said the Costa Rica aspect of the arrangements did not come up in the conversation, and the US resettlement deal is “being dealt with at officials’ level” while the deal progresses.

In September, Australia committed to take refugees from Guatemala, Honduras and El Salvador now in camps in Costa Rica. In November, the Turnbull government announced that the US would take refugees in offshore detention on Manus Island and Nauru. The government has repeatedly denied the commitments are a quid pro quo.

But Dutton has now linked the two after the Trump administration committed to honour the deal but emphasised that under its policy of “extreme vetting” it is not obliged to take any particular refugee or the full 1,250 people.

Dutton said Australia “wouldn’t take anyone [from Costa Rica] until we had assurances that people are going to go off Nauru and Manus”.

Asked if this constituted a quid pro quo, he replied: “We want an outcome in relation to Nauru and Manus.”

“It was beneficial to the US, and it was beneficial to us,” Dutton said, using the singular to describe an arrangement the government had previously characterised as two separate commitments.

The immigration minister said the government had learned from the Gillard government’s proposed Malaysia solution. “We accepted all the people from Malaysia and not one person went from Australia – we’re not going to be sucked into that sort of silly outcome,” he said, without acknowledging the Coalition’s role in blocking the policy.

On Wednesday shadow defence minister and former shadow immigration minister, Richard Marles, told Sky News that Dutton had now made it clear the deals were a quid pro quo, despite Turnbull’s denials.

“Everyone knew it was a deal and last night ... Peter Dutton belled the cat, making clear Costa Rica was contingent on the US honouring the deal.”

Marles said the government had characterised the US arrangement as “such a done deal ... but if you look at Peter Dutton’s comments, clearly he is putting a question mark on this. So is this going ahead or not? Is it enough of a done deal that we can be certain that people will be taken off Manus or Nauru or not?”

Dutton said the Australian government “appreciates the support of President Trump” for accepting the arrangement and “takes the US at its word”.

Dutton said Bishop would not have to discuss the US deal in great detail because it was working well, with US officials already visiting both offshore camps.

Dutton said that he expected people would start to leave Manus Island and Nauru “in the not too distant future ... in the next couple of months”.

Asked if the US resettlement deal had acted as a lure to refugees to come to Australia, Dutton conceded there was evidence that people smugglers had tried to turn it “into a message of hope” to sell boat journeys to Australia.

He said the government had not made a statement about whether boats had increased, but added: “These people smugglers have not gone away.”

Refugees would be prevented from reaching Australia with increased surveillance, he said, and warning that no one who arrived in future would get the benefit of the US deal.

<https://www.theguardian.com/australia-news/2017/feb/22/peter-dutton-links-us-refugee-resettlement-plan-to-costa-rica-deal>

10. Michael Gordon: Peter Dutton's reckless comments could put US deal at risk

Canberra Times
February 22 2017 - 12:12PM
Michael Gordon

Is Peter Dutton deliberately trying to sabotage the deal to resettle refugees from Manus Island and Nauru? Or is the Immigration Minister simply just insensitive, undiplomatic and incompetent?

Either way, the Immigration Minister is flirting with fire when he asserts Australia will not take any Costa Rica refugees from the United States until the Americans deliver on their agreement to take refugees from Manus Island and Nauru.

He also revealed that not only he, but Malcolm Turnbull and Scott Morrison, misled the Australian people when they asserted point blank, repeatedly, that there was no connection whatsoever between the two arrangements.

Dutton's interview with Andrew Bolt on Sky News was extraordinary in several respects, but mostly because it implied a lack of trust in the United States to deliver on the deal Malcolm Turnbull negotiated with Barack Obama.

That Dutton should do this after all the controversy over that phone call between Turnbull and Donald Trump, is, at best, inexplicable. At worst, it is dangerous and unforgivable.

Trump has made it abundantly clear that he is looking for any excuse to junk the deal and Dutton has just handed him one on a platter. What was he thinking?

"My job is to argue our case. The US can argue theirs," Dutton declared. No, mate, they are our trusted ally and Turnbull has been assiduous in asserting there is no argument.

Referring to the 2011 Malaysian people swap agreement negotiated by the Gillard government, Dutton told Bolt: "We're not going to be sucked into that sort of silly outcome".

That agreement was designed to stem the flow of boats to Australia, with Malaysia agreeing to accept 800 asylum seekers who arrived in Australia by boat in return for Australia taking 4000 refugees from Malaysia over four years.

Other potential benefits included asylum seekers being granted work rights in Malaysia. Gillard honoured her part of the bargain, but no asylum seekers were sent from Australia to Malaysia because of Coalition obstruction, not once, but twice. Tony Abbott, who led that obstruction, has since conceded that this was a mistake.

Turnbull announced at the Obama refuge summit last September that Australia would participate in the US-led program to resettle Central American refugees currently in a resettlement centre in Costa Rica.

The same day, I wrote that, if Turnbull's offer to help the United States was not the start of a solution for those on Nauru and Manus Island, it should be. "There is a logical quid pro quo here: that if Australia helps the US by resettling refugees being held in Latin America, they should do the same for Australia by resettling refugees detained on tiny islands," I wrote.

When Turnbull was asked if the deal could amount to a people swap agreement, he was emphatic. "The announcement today is not connected to any other arrangements," he told reporters. This was repeated many times, including by Dutton and Morrison.

But not any more. To Bolt, Dutton also said he would not use the term "people swap" to describe the arrangement, but added that he had no "problem with the characterisation".

He then made the link crystal clear by saying Australia would not take anyone from Costa Rica "until we had assurances that people were to go off Nauru and Manus". If it walks like a duck and quacks like a duck...

Dutton also predicted that the first transfers from Nauru and Manus to the United States would take place in "the next couple of months", though this would seem a wildly optimistic assessment.

Even before Trump declared that transfers would be subjected to "extreme vetting", it was unlikely that any transfers would take place before May.

Julie Bishop has since reverted to script, declining to endorse any connection between the arrangements and expressing confidence that the agreement to resettle up to 1250 of the more than 2000 on Nauru and Manus is progressing well. But words, once said, can't be unsaid.

Dutton can only hope Trump is too busy to have noticed or doesn't care.

<http://www.canberratimes.com.au/federal-politics/political-opinion/peter-duttons-reckless-comments-could-put-us-deal-at-risk-20170221-guiepd.html>

11. Refugee resettlement deal between Australia, US 'not a people swap', Peter Dutton says

ABC News Online

By political reporter Stephanie Anderson

Thursday February 23, 2017

Immigration Minister Peter Dutton has walked back his comments on the refugee resettlement deals between Australia and the US, saying he has "been clear that it's not a people swap".

Prime Minister Malcolm Turnbull last year announced two deals between the US and Australia, with the latter resettling refugees from Costa Rica while the US took in refugees from Manus Island and Nauru.

Neither government had publicly linked the two deals until Tuesday, when Mr Dutton told Sky News that Australia would not resettle refugees from Costa Rica until the US had reassured the Government over the second deal.

He added that he had no problem with people describing the two deals between the US and Australia to resettle refugees as a people swap, prompting Foreign Minister Julie Bishop to dismiss the characterisation.

The Immigration Minister today dismissed the response to his comments as a "storm in a tea cup".

Mr Dutton told 2GB he had been clear the two deals were not linked.

"In the end, people can use whatever language they want," he said.

"I'm not going to get bogged down in nuance and discussion.

"I'm a pretty frank speaker and I've been clear that it's not a people swap. They are two separate arrangements."

Mr Dutton also accused Labor of playing "word games" after his Opposition counterpart Shayne Neumann called for clarification on the issue.

Mr Neumann told Sky News today the Government needed to release the terms of the agreements.

"Was Peter Dutton going solo?" he asked.

"Was he retrospectively putting demands on the Americans or was he retrospectively changing the terms of the agreements?"

"We don't know. The Government needs to clarify."

<http://www.abc.net.au/news/2017-02-23/peter-dutton-australia-us-resettlement-not-a-people-swapping-de/8295976>

12. Q&A: George Brandis defends Manus, Nauru refugee deal with United States

The Age

February 21 2017

Georgina Mitchell

Attorney-General George Brandis has defended Australia's refugee deal with the United States, maintaining it wasn't on the verge of collapse despite Malcolm Turnbull's prickly phone call with Donald Trump in late January.

On the ABC's Q&A on Monday night, the Liberal senator was quizzed on refugees as well as politicians' expenses, the Family Court, and the Centrelink debt notice scandal.

One questioner said the deal "nearly fell apart" after Mr Trump branded it "dumb" on Twitter, and asked what would happen if the US reneged on its offer to take refugees from Nauru and Manus Island.

Mr Brandis responded: "You say the deal nearly fell apart. The fact is it didn't fall apart."

"The fact is that it was affirmed by the Trump administration. It was negotiated by the Obama administration, it was affirmed by the Trump administration," he continued.

"Famously we now know that the Prime Minister had a difficult telephone conversation with President Trump, and the outcome of that telephone conversation was that President Trump committed to the deal. That's what's important."

He said extreme vetting was "always part" of the deal, which will see up to 1250 refugees from Manus Island and Nauru settled in the United States.

"This was the arrangement entered into with the Obama administration. It was always part of the arrangements that the American authorities would conduct their own vetting. That hasn't changed," Mr Brandis said.

"I can't tell you as a matter of days or weeks how long it will take, but that process has commenced and is now underway."

Asked about Mr Trump's suspended executive order to halt immigration from seven Muslim majority nations, Mr Brandis responded: "Surely the relevant fact is that Trump has affirmed the deal."

"These are all people, by the way, who were locked up in Manus Island and Nauru as a result of decisions of the previous Labor government," he said, to jeers from the audience.

"Every single one. And those in the audience who jeer should remember the fact, 'cause it's incontrovertible - the Manus Island deal was done by Kevin Rudd with Prime Minister O'Neill. Every single person on Manus Island was put there by the Rudd government."

Barrister and human rights advocate Julian Burnside, QC, then broached the wider issue of indefinite detention of asylum seekers.

Mr Burnside: "Attorney General, as the senior law officer of the country, do you believe that asylum seekers who come to Australia commit any offence?"

Mr Brandis: Ah, yes I do.

Burnside: What offence do they commit? Have any of them been charged with anything?

Brandis: They commit offences against our migration laws, which prescribe-

Burnside: Which section?

Brandis: Well I'm not going to quote you a section.

Burnside: Because there isn't one. You're just wrong.

The Attorney-General was then silenced temporarily by applause from the audience.

He said people were entitled to seek asylum "in an orderly manner", however "the people of whom we speak are people who've put themselves in the hands of people smugglers, and who have come to Australia unlawfully."

<http://www.theage.com.au/federal-politics/political-news/qa-george-brandis-defends-manus-nauru-refugee-deal-with-united-states-20170220-guuhb29.html>

13. Most agree, keeping refugees on Manus and Nauru is cruel: pollster

Canberra Times
February 21 2017 - 6:02PM
Michael Gordon

Australians overwhelmingly believe keeping asylum seekers on Manus Island and Nauru indefinitely is cruel, but are evenly split on whether they should be resettled in Australia, a survey has found.

The poll by Roy Morgan Research shows attitudes towards those held on remote foreign islands are heavily based on age, gender, geography and political affiliation, with young progressive voters strongly supporting resettlement in Australia.

The chief executive officer of Roy Morgan Research, Michele Levine, said those who took part in the poll were invited to comment on the policy that has left more than 2000 asylum seekers on Manus and Nauru for more than three years.

"Even those who said: 'Don't bring them to Australia' would still say: 'It's really cruel, I'm concerned at the way they are living'," Ms Levine told Fairfax Media. "There is an overwhelming concern and response to the human suffering that seems to cut across everything."

The SMS Morgan Poll of 1266 Australians last weekend found a majority of voters in Victoria (52 per cent), New South Wales (51) and Tasmania (58) supported bringing those on Manus and Nauru to Australia.

A majority of voters in Queensland (53 per cent), Western Australia (57) and South Australia (54) opposed resettlement in Australia.

Younger voters were more likely to support resettlement in Australia, with the strongest support among those under 24 (58 per cent) and the strongest opposition among those aged between 50 and 64 (57 per cent).

Female voters strongly supported resettlement in Australia (58 per cent) while male voters were just as likely to be opposed (59 per cent).

While Greens supporters (93 per cent) and Labor voters (68 per cent) were in favour of resettlement in Australia, Coalition voters were strongly opposed (77 per cent).

The survey coincides an announcement that the Royal Commission into Institutional Responses to Child Sexual Abuse is set to hold limited public hearings on Australia's immigration detention regime on Nauru.

The news was welcomed by executive director of the Human Rights Law Centre's Executive Director, Hugh de Kretser, who said "any scrutiny of the Australian Government's role in harming innocent children in its care is vital, welcome and overdue".

The Refugee Council of Australia on Tuesday released a "state of the nation" report, applauding Australia's resettlement of refugees from overseas as leading the world, but describing the approach to asylum seekers as "among the world's worst".

"Australia, alone in the world, sends people seeking asylum by boat to tiny islands with threats they will never be able to seek safety in Australia," the report says.

While human rights agencies have repeatedly described the indefinite confinement of asylum seekers on the islands as in breach of international law, the Turnbull Government has vowed that none of those on Nauru or Manus will be resettled in Australia, insisting this would be an incentive to people smugglers to attempt to restart their trade.

American officials have begun interviewing detainees on Manus Island who want to be included in the agreement to resettle up to 1250 of the refugees in the United States. They have completed the first round on interviews on Nauru.

US President Donald Trump has branded the deal, struck with Barack Obama, as "dumb" but agreed to proceed with it in a tense phone call with Malcolm Turnbull.

Asked if Labor would support resettlement in Australia if the US deal fell over, Labor's Tanya Plibersek told the ABC on Monday: "No, we need to find third-country resettlement as quickly as possible."

Ms Levine said a majority of opponents to resettlement in Australia said the asylum seekers had not come the "right way" or expressed concern that Australia had enough challenges accommodating those already here.

A fear that resettlement in Australia could lead to thousands attempting to come to Australia was mentioned "a little bit", but was not "at the top of people's minds".

"It's less about border security, it's less about fear that there'll be hordes of people coming. It's really concerns about, do we have enough housing? Will we be able to fit them in? What about our own poor?"

<http://www.canberratimes.com.au/federal-politics/political-news/most-agree-keeping-refugees-on-manus-and-nauru-is-cruel-pollster-20170221-guhz3z.html>

14. Finding jobs faster for new refugees a 'triple win' for Australia, report finds

Study shows helping new arrivals into employment more quickly would aid Australia's economy, benefit vulnerable people and improve social cohesion

The Guardian
Ben Doherty
Tuesday 21 February 2017 12.11 AEDT

Helping newly arrived refugees into jobs more quickly would be a "triple win" for Australia, benefiting vulnerable people, aiding Australia's budget bottom line, and improving social cohesion and integration, a new report says.

The study by the Centre for Policy Development shows only 17% of refugees are in paid work 18 months after arriving in Australia, and they are finding jobs with limited prospects.

Many refugees who do find work in Australia take jobs below their skill or qualification level. About 60% held highly skilled jobs in their home countries, but about 26% find similar-level work in Australia.

Two out of five refugees find work as labourers, the report found, but demand for that work is diminishing in Australia's transitioning economy. Others find work as drivers or machinery operators, but demand in those occupations is stagnant.

Five key factors hold refugees back from entering the workforce: limited English, a lack of work experience, poor health, limited opportunities for women and having been in Australia for a short period. Of those factors, speaking English well appears to be a key factor in finding work. 85% of refugees who speak English well are in the labour market, compared with 15% who do not speak English well.

Getting more refugees into work more quickly is the “bedrock for successful settlement”, the CDP report found.

“While employment rates improve with time, to get more refugees into jobs more quickly would be a triple win: it would benefit vulnerable people, boost the budget and improve social cohesion.”

If labour market outcomes could be improved by 25%, refugees could earn an additional \$2.5bn over a decade, adding \$1bn to the government’s bottom line, the report said.

Travers McLeod, chief executive of the CPD, said there were practical steps Australia could take to improve refugees’ chances of finding sustainable work in Australia.

“We can invest in targeted employment assistance focused on the barriers we have identified. We can leverage overseas best practice – better skills recognition, better private employer and community sponsorship options, and microfinance programs, particularly for women. We can establish a centre of gravity for post-arrival settlement services in Canberra.

“As our economy changes and demand for low-skill labour drops, it will only become harder for humanitarian migrants to secure work. We need to act now.”

State governments around the country have established dedicated refugee employment programs. The NSW government has partnered with major companies such as Westpac, Woolworths, Telstra, Harvey Norman, AMP and Australia Post in the Refugee Employment Support Program to help 7,000 refugees into work in western Sydney and the Illawarra.

In Victoria, the Jobs Victoria Employment Network aims to assist disadvantaged jobseekers, including refugees and migrants, into jobs in targeted industries.

Malcolm Turnbull told the United Nations general assembly in September: “Australia is one of the most successful multicultural societies in the world” with a “long experience of, and commitment to, settlement services to ensure our immigrants, especially refugees, become successfully integrated into our society”.

But the immigration minister, Peter Dutton, said during last year’s election campaign that refugees were a burden on the Australian economy. “For many people, they won’t be, you know, numerate or literate in their own language, let alone English. These people would be taking Australian jobs, there’s no question about that.

“For many of them that would be unemployed, they would languish in unemployment queues and on Medicare and the rest of it so there would be huge cost and there’s no sense in sugar-coating that, that’s the scenario.”

However, long-term, refugee resettlement has been found to be immensely beneficial to Australia, both socially and economically.

A 2011 report by South Australian professor Graham Hugo, commissioned by the immigration department, found “the overwhelming picture, when one takes the longer term perspective of changes over the working lifetime of humanitarian program [refugee settlement] entrants and their children, is one of considerable achievement and contribution”.

<https://www.theguardian.com/australia-news/2017/feb/21/finding-jobs-faster-for-new-refugees-a-triple-win-for-australia-report-finds>

15. Child abuse inquiry to hold limited public hearings into offshore detention regime

In its final set of public hearings, royal commission to examine child protection in Australia’s detention centres on Nauru and Manus Island

The Guardian
Paul Farrell
Tuesday 21 February 2017 15.03 AEDT

The royal commission into child sexual abuse is to hold limited public hearings on Australia’s immigration detention regime on Nauru and Manus Island.

The royal commission had initially declined to conduct investigations into Manus and Nauru because of jurisdictional concerns about the scope of the inquiry’s powers. Legal groups had urged the royal commission to examine Australia’s

offshore immigration detention regime, outlining legal advice that Australia's institutional response to allegations of abuse were within its power and terms of reference.

The commission appears to have partially adopted this approach, announcing the limited public hearing into the Australian government's response to report of a child protection panel convened by the immigration minister, Peter Dutton.

In a statement issued on Tuesday, the royal commission said its final scheduled public hearing in March would examine the Australian government's response to the report.

"On 14 November 2016 the royal commission announced a series of public hearings to be held in Sydney to inquire into the current policies and procedures relating to child protection and child safety of various institutions," the statement said.

It said the hearings would include: "The response of the commonwealth government to the recommendations of the child protection panel in its report dated 11 May 2016, 'Making Children Safer – the wellbeing and protection of children in immigration detention and regional processing centres'."

The child protection panel identified serious inadequacies in Australia's child protection framework in the immigration detention system on Manus and Nauru. It found almost half of the responses to reported incidents of child abuse were inadequate and the immigration department was unsure of the number, nature and severity of incidents.

The panel made a series of recommendations including to improve categorisation of incidents, to require service providers to deliver accurate and complete incident reports, and to ensure inquiries were not finalised without all available facts and an effective response.

There has been renewed focus on the asylum seekers and refugees held on Nauru by Australia after the Guardian's publication of the Nauru files, which detailed thousands of incident reports from the island's detention facility until October 2015.

A Senate inquiry is also under way into serious allegations of abuse and assault on Nauru and the department is facing increasing pressure to release information about incident reports, as well as healthcare information for asylum seekers and refugees on the island.

The royal commission's limited hearings will still not fully examine the detention regime on Manus Island and Nauru. They will occur as part of a set of hearings into other areas of government responses, including the defence department and the management of working with children's checks.

The commission has made substantial inquiries into the onshore immigration detention regime, but declined to hold public hearings.

The hearings will begin in March.

Contact Paul Farrell at paul.farrell@theguardian.com or via the secure messaging app Signal on +61 457 262 172

<https://www.theguardian.com/australia-news/2017/feb/21/child-abuse-inquiry-to-scrutinise-australias-detention-regime-on-nauru-and-manus>

16. Vietnamese asylum seeker returned by Australia says 'a bullet would be better'

ABC News Online

By South-East Asia correspondent Liam Cochrane

Tuesday February 21, 2017

A Vietnamese asylum seeker has said she faced three months of detention and beatings after being returned by Australian immigration officials.

Tran Thi Lua fled a second time, trying to reach Australia this month, but her boat broke down off the Indonesian coast.

Now she is stranded in Indonesia with her three children and two other Vietnamese families, hoping for an interview with the United Nations refugee agency this week.

The other two mothers on the recent boat trip were also returned by Australia in 2015 and faced punishment from the communist Vietnamese Government.

"We would rather receive a bullet to the head than go back to Vietnam," Mrs Tran said.

She fled Vietnam in July 2015 after a land dispute escalated to arrests and beatings by officials.

Her boat was intercepted by the Australian Navy, kept at sea while a fast-tracked asylum assessment was conducted and then all 46 people on board were handed over to Vietnam.

A separate boatload of 46 Vietnamese asylum seekers was stopped in April 2015, with all claims rejected.

"We assure ourselves of the fact that people aren't returning to persecution or to a difficult situation," then-Immigration Minister Peter Dutton said at the time.

"We have worked with the Vietnamese in relation to this issue and ... have been able to safely return those 46 people to Vietnam," Mr Dutton told Australian media.

However, Mrs Tran told the ABC the Vietnamese immigration officials who greeted them at the airport put on a show for their Australian counterparts.

"It was staged to create the impression to the Australians that we'd be well treated," she said via a translator.

"However we were immediately taken to a detention centre — Vietnam didn't keep its promise ... I was held for three months and I was beaten."

Mrs Tran was released but later sentenced to three years in prison for illegally leaving the country.

She decided to flee earlier this month with her children before her term was due to begin.

UNHCR expresses 'profound concern'

In the last two years, Australia has intercepted and returned 113 Vietnamese asylum seekers, according to Immigration Department figures.

The UN High Commission for Refugee (UNHCR) in Canberra has criticised Australia's turn-back policy.

"UNHCR has expressed profound concern at the turn-back of asylum seekers from Australia, without adequate consideration of international protection needs," a spokesman for the agency said.

"A lack of proper and comprehensive screening procedures denies asylum seekers their basic right to seek safety, and risks their return to danger and persecution."

Australia has formalised its immigration arrangements with Vietnam, signing a memorandum of understanding in December despite cases of asylum seekers alleging abuse on their return.

A spokesman for Mr Dutton denied Australia was breaching international protocols by returning asylum seekers to a country where they face persecution.

"Any people smuggling boat that attempts to reach Australia will be intercepted and turned back," he said this week.

"The Australian Government does not comment on matters associated with on-water operations."

Family faces uncertain future

For Mrs Tran and her three children, the future is very uncertain. Her children are aged 4, 10 and 12, and her husband is in detention.

The Vietnamese community in Australia has rallied to support the families stranded in Indonesia.

Donations from Australia have paid for rental accommodation, keeping the families out of Indonesian immigration detention facilities.

An experienced immigration worker is travelling from Australia this week to assist with the case, a refugee advocate said.

But any change of heart from the Indonesian Government could see them detained or sent back to Vietnam.

If that happens, Mrs Tran says she will be thrown in jail for seeking asylum and her young children will be on the street.

<http://www.abc.net.au/news/2017-02-21/vietnam-asylum-seeker-returned-by-australia-speaks-of-beatings/8288226>

17. Indonesian teen Ali Jasmin appeals people smuggling conviction, court finds age testing was unreliable

ABC News Online

By Nicolas Perpitch

Monday February 20, 2017

The Commonwealth has formally conceded evidence used to demonstrate an Indonesian was an adult rather than a child during a people smuggling case was unreliable, as a court considers whether to quash the conviction entirely.

Ali Jasmin was convicted and jailed in 2010 for five years in a maximum security Western Australian prison, despite documents showing he was 13 at the time of his arrest.

From a fishing village on the island of Flores, he was recruited as a cook on a people smuggling boat stopped by Australian authorities while carrying 55 Afghans near Ashmore Reef in December 2009.

He is seeking to have his conviction overturned in an appeal considered a test case for 14 other Indonesians released in 2012, along with Mr Jasmin, by then attorney-general Nicola Roxon due to doubts about their age.

The Commonwealth policy at the time was that any members of a people smuggling boat crew found to be a child should be returned home rather than face charges.

During a hearing in the Western Australian Criminal Court of Appeal today, Commonwealth prosecutor Kate Gregory said evidence which had found Mr Jasmin was over 18 at the time of his trial was legally "unsafe", meaning it was based on unreliable evidence.

After his arrest in 2012, the Department of Immigration found Mr Jasmin was a child, but this was later overruled by the Australia Federal Police who used a now discredited wrist X-ray to determine Mr Jasmin was an adult.

He was convicted despite an Indonesian birth certificate and family registration document putting his age as 13 at the time of his arrest.

These documents were never tendered as part of Mr Jasmin's defence.

The court of appeal has asked Mr Jasmin's lawyers and the Commonwealth for submissions on whether it has the power to set aside Mr Jasmin's 2010 conviction and acquit him, despite the fact he pleaded guilty to the charge at the time.

Ms Gregory said if the matter was sent back to the District Court or the Children's Court for a retrial, the Commonwealth would seek a discontinuance given the policy not to prosecute juveniles in people smuggling cases.

Compensation on the cards if conviction quashed

If the conviction is overturned it could open the Federal Government up to compensation claims.

Mr Jasmin was released in 2012, after extensive media coverage of his case, and deported to Indonesia.

In July 2014, his lawyers applied for their client to have the right to appeal against his people smuggling conviction.

The decision sat with Attorney-General George Brandis for more than a year.

Mr Jasmin's lawyers then took the case to the Federal Court in an attempt to force Mr Brandis to make a decision.

In November 2015, Mr Brandis acknowledged doubt about the reliability of the wrist X-ray to determine Mr Jasmin's age raised an issue that should be dealt with by courts and referred the matter to the WA Court of Appeal.

The court today reserved its judgement in the matter.

<http://www.abc.net.au/news/2017-02-20/indonesian-teen-ali-yasmin-appeals-people-smuggling-conviction/8286364>

18. Boys accused of people smuggling held in adult jails, argues class action against Australian Government

ABC News Online

By Indonesia bureau chief Samantha Hawley

Thursday February 23, 2017

The central Jakarta District Court will this morning begin hearing a class action against the Australian Government over allegations Indonesian boys jailed for people smuggling were held in adult prisons.

With the support of Indonesia's National Commission of Child Protection (KPAI), lawyer Lisa Hiariej will argue the case on behalf of the group of 115 Indonesians, who were allegedly either jailed or held in immigration detention as juveniles.

"They are very scared, they are not criminals," Ms Hiariej told the ABC ahead of the court appearance.

"Their mental health is still not good."

Ms Hiariej alleged 31 boys aged between 13 and 17 years old were jailed in adult prisons in Sydney, Melbourne, Brisbane and Perth between 2008 and 2012 for crewing asylum seeker boats.

Ms Hiariej said a further 84 boys spent more than three months in immigration detention, which she believes was against the law.

The court will hear the children were themselves victims of people smuggling and they are seeking millions of dollars in compensation from the Australian Government.

Three judges will preside over the civil case.

"The lawyers found out they were underage by going to their villages and finding their birth certificates," Ms Hiariej said.

She said she had the 115 birth certificates to prove the case.

<http://www.abc.net.au/news/2017-02-23/indonesian-boys-held-in-adult-jails-for-people-smuggling:-lawyer/8295466>

19. Witnesses to Reza Barati's murder in fear after killer escapes from jail

Canberra Times

February 24 2017 - 4:26PM

Michael Gordon

Two men who witnessed the murder of Reza Barati at the Manus Island detention centre in 2014 fear for their safety after the man they testified against escaped from jail.

Convicted killer Joshua Kaluvia escaped from the local jail for the second time last Saturday, prompting a warning to immigration officials to increase security at the detention centre.

Police commander David Yapu described Kaluvia as a "high-risk" escapee and said he had concerns for the safety of the community and the two witnesses.

"That is my big worry," Mr Yapu told Fairfax Media when asked about the safety of the witnesses. "The sooner we get him back behind bars, the better."

Benham Satah and Hamid Nezhad say they spent a sleepless night at the detention centre after learning of the escape on Thursday. The centre was declared an open facility after Papua New Guinea's highest court ruled last April that the detention of around 1000 asylum seekers was unconstitutional.

"I have nothing to protect myself. My mind is not working," Mr Satah told Fairfax Media. "Maybe he comes with some people and the door is open."

Both men had refused to submit their claims for refugee status because they say they would fear for their lives if released into the community after testifying against Kaluvia.

Kaluvia, a former Salvation Army worker at the detention centre, was sentenced to three years and four months' hard labour after being convicted of the murder when locals and staff turned on detainees in February 2014.

He escaped from the jail last March and was recaptured before being found guilty in April, along with another local, Louie Efi. PNG police have long expressed frustration that two expats who they believe were involved in the murder had been able to leave the country before being questioned.

After been given negative refugee status and threatened with deportation, both witnesses resolved to cooperate with PNG immigration officials and Mr Nezhad lodged his application last week.

Mr Satah was due to speak to a lawyer on Friday before submitting his protection application and being interviewed by PNG immigration officials on Saturday.

He says he has not left his room since hearing of the escape and will not go to any interview until Kaluvia is re-captured.

"I am genuine refugee, 100 per cent. If I give my claims I will be found a genuine refugee, but now my mind is not working to go and talk," Mr Satah said.

Mr Yapu said Kaluvia took the opportunity to escape when prisoners at the jail in Lorengau were taken to the local beach to shower because of water problems at the jail.

"I went to Radio Manus and appealed to people in the community, if there is any information on his whereabouts, they need to pass it to the police so we can arrest him and bring him back," he said.

Mr Yapu said police had also alerted immigration authorities so that security could be increased at the centre to protect Mr Satah and Mr Nezhad.

Local MP Ronny Knight said he was not concerned at the escape. "It's a case of a young man that is homesick. He has absconded several times accumulating six months each time. He will hand himself in and get another six months," he said.

<http://www.canberratimes.com.au/federal-politics/political-news/witnesses-to-reza-baratis-murder-in-fear-after-killer-escapes-from-jail-20170224-guktjb.html>