

Project SafeCom News and Updates

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1. Gillian Triggs says Australia's politicians leading 'assault' on democratic ideals

Human Rights Commission president says right to advocate and freedom of speech threatened by governments

The Guardian

Elle Hunt

Thursday 8 June 2017 06.10 AEST

Gillian Triggs says an “ideological assault” on community advocacy is being waged by Australian governments and political leaders that threatens the fundamental ideals of democracy.

The president of the Australian Human Rights Commission said the right to advocate and freedom of speech – “some of the most basic ideas” underpinning a democratic society – were under threat from federal and state governments.

“And it’s all the more dangerous because those most likely to breach our human rights are the very governments that are elected to serve community interests,” she said.

Triggs made the comments in a speech at the launch of the Human Rights Law Centre’s Defending Democracy report at the #Progress2017 conference in Melbourne on Wednesday.

Australia had a long history of social activism, she said, but over recent years government-funded bodies had had their capabilities curtailed. Triggs singled out gag laws on Queensland health and welfare agencies that were “mercifully repealed” by the Palaszczuk government in 2015, and a referred proposal to ban foreign donations to environmental and activist groups such as GetUp.

“Some such organisations are simply defunded. Others cannot spend their funds on any form of advocacy ... My concern is that there is an ideological assault on advocacy by community bodies that receive any form of government funding.”

The attorney general’s “deliberate effort ... to confine services to those that actually help the flesh and blood individual” through funding cuts and direction restricted organisations’ potential for systemic change.

“While of course individuals should be assisted with legal advice and other services, the fact is to ensure social justice and advocacy is more effective in achieving policy changes on wider issues of principle and of course of law.”

She quoted at length the “damning report” of Michel Forst, the UN special rapporteur, in October last year. In it Forst found Australian government officials viewed advocacy as political opposition and “paid lip service to consultation with civil society”.

Forst had also called for an urgent review of secrecy provisions under the Border Force Act, which Triggs singled out as being of particular concern to her. “The effect is of course to stop teachers, service providers, guards, public servants speaking out about conditions in the offshore detention prisons on Manus, Nauru, Christmas island, Villawood and elsewhere.”

Other threats included access by law enforcement agencies to metadata, a “significant overreach” of criminalising speech and defamation laws, and constraints on civil society organisations’ capacity to engage in the political process, Triggs said.

Fake news was being propagated by the government, she said, in its “attempts to destroy the reputations” of non-government organisations such as Save the Children.

“Governments make allegations against civil society actors ... that only later, on Senate inquiries, are shown to be false. The problem is that it’s too late to stop the damage – the political advantage has been gripped in short terms.”

Barriers to whistleblowing on human rights abuses or government misconduct had led to a “trend of intimidation and persecution” that had, even more recently, had been extended to attacking individuals who spoke out on the ABC’s Q&A, on social media, or “even part of their statutory obligations”, Triggs said.

The report launched on Wednesday was written by 15 non-government organisations and highlighted the urgent need to safeguard individual civil society voices.

It makes proposals that include adopting and strengthening legislation such as the Commonwealth’s Not-for-profit Sector Freedom to Advocate Act, adopted by South Australia in 2013.

Triggs concluded her speech by commending the work of the gathered advocates – “those who are perhaps irritants, perhaps a little as I have been” – in “these trying times”.

“It’s really interesting to me how many papers one can write, how many books or speeches, but what really seems to make the difference these days is that CCTV footage of that young boy in a spit-hood restraint in the Northern Territory, or the picture of the crumpled body of a four-year-old child on the beach as an asylum seeker.”

She said the Australian public believed in “the fair go”. “They are good people but they are often very misinformed, and we lack the level of senior leadership that will ensure that social justice is achieved throughout Australia.”

Earlier Triggs had discussed some of the cartoon depictions of her in the past five years, showing her “from fascist dictator to ultimately a trophy in the attorney general’s office”.

Her favourite of more than 50 cartoons was by David Pope and titled “Quantum of Brandis”. It showed her dangling from a hook above a shark-infested pool as the attorney general, George Brandis, looked on stroking a white cat.

“The running line underneath this in the newspaper was ‘Triggs. Gillian Triggs’,” she said. “I do like this one.”

<https://www.theguardian.com/australia-news/2017/jun/08/gillian-triggs-says-australias-politicians-leading-assault-on-democratic-ideals>

2. A future for Australia's refugee program? Private sponsorship costing \$100,000

Canberra Times
May 28 2017 - 12:15AM
Adam Morton

Sam Al Maraee says he is lucky. When his parents and sisters in Baghdad faced death threats unless they embraced Islamic State's perverted brand of Islam, he had the means to give them a chance most of the world's 21 million refugees will never have.

At a personal cost of \$100,000, he was able to bring them to Australia after they hurriedly fled to Jordan in 2014, leaving behind not just possessions but the food in the fridge.

Al Maraee had moved to Sydney nearly a decade earlier. He was targeted by al-Qaeda for working alongside the invading forces in the Iraqi capital's green zone. An anti-tank missile was fired into his house while his wife, Sabba, and youngest son, Fahad, were inside. Al Maraee didn't think twice. He packed up his family of six, headed for the border, and within months was accepted as part of Australia's humanitarian refugee program.

He was able to bring out his extended family, including a brother-in-law and niece, through another program – a pilot scheme for community sponsorship of refugees.

As followers of Mandaism, a gnostic religion that considers John the Baptist a prophet, the family were targeted by IS, and could have qualified for Australia's traditional refugee intake. “We ticked a lot of boxes to be killed,” Al Maraee says. But as the world lurched into the worst humanitarian crisis since World War II, the chances of winning places were limited.

Instead, they used a program introduced under Labor that allowed community members and businesses to apply to sponsor refugees if they bore all costs – airfares, medical and housing expenses and an application fee that in some cases topped \$30,000.

Now based in Newcastle where he runs an engineering consultancy, Al Maraee was pleased to be able to help his loved ones, including his parents Ali and Dalal, both aged in their late 70s, but acknowledges the price would be prohibitive for many.

“It is good if we can bring people and get them out of that situation – I don't mind paying. We're lucky we're in a good financial position and can afford it,” he says. “There are people in more danger, or have lost a husband or a wife or a child, and don't have someone to sponsor them.”

The community sponsorship scheme was expanded in this month's federal budget to take up to 1000 a people a year, up from 500. Though not paid for by taxpayers, the refugees it brings in will be counted as part of the humanitarian refugee intake of 18,750 a year.

The budget papers show it will cut the amount the Turnbull government would otherwise have spent on refugees over the next four years by \$26.9 million.

The expanding program has prompted debate over what role a privately sponsored refugee program should play. Refugee advocates point out Australia's intake is generous by global standards, but that the country still takes fewer refugees than it did in the early 1980s.

Three federal Victorian MPs responded last week with a joint call in Parliament for an expansion of private sponsorship. A motion by Labor's Tim Watts was backed across the aisle by the Nationals' Andrew Broad and Liberal Russell Broadbent.

Watts cited the experience in Canada, where more than 200,000 privately sponsored refugees above the humanitarian intake have been brought in over 40 years. Broad suggested Australia's scheme could be expanded to 10,000.

Aid agency Save the Children says Australia must bring in more refugees, and should consider creative responses to the global crisis. Policy and advocacy director Mat Tinkler stresses new programs should be additional to the humanitarian intake, and not used as a way to cut government spending.

"Expanding these programs would help build trust in the community towards all cultural and ethnic backgrounds at a time when some forces in society want to divide us," he says. "But the Australian government should not be using the goodwill of the community to offset its global commitments."

<http://www.canberratimes.com.au/federal-politics/political-news/the-future-for-australias-refugee-program-private-sponsorship-costing-100000-20170527-gweh6z.html>

3. Peter Lewis: What if Australia already had its 'Trump moment' – and it was Tony Abbott?

If the populist moment has passed, there is just the chance Labor could win power on the promise of making the system work, rather than simply tearing everything down

The Guardian
Monday 29 May 2017 21.26 EDT
Peter Lewis

Right now Australian politics feels like an exercise in resignation. Like the ill-fated Melburnians waiting on the beach for Nevil Shute's nuclear cloud to finally reach them, we are waiting for populism to infest our shores and degrade our polity.

In the wake of Brexit and then the inexplicable triumph of Trump, domestic politics has been framed by many pundits (myself included) around the consensus that we were facing our own imminent populist moment.

There's been the resurgence of One Nation, the defection of Cory Bernardi to the Family First fold, Labor's foreign visa crackdown, even the Coalition has taken to bashing the banks.

On both sides of the aisle, the major parties appear frozen by their concern voters will turn to the margins if they are not fed their red meat, with reactionary social policies and anti-market economic policies competing on the fringes for the same disaffected voters.

The major parties justify their approach by telling themselves if they don't follow the electorate to the political edges, then the backlash will only be greater. They are not pandering to populism, they are channelling it.

But the failure of One Nation to build on its vote in recent months has got me wondering whether we haven't got it all wrong – whether we are not mistaking the windscreen for the rear-view mirror.

What if there is no populist surge on the horizon? What if Australia has already had its populist moment ahead of the other western democracies and we are now dealing with the consequences of that misadventure?

Think about it: emotive slogans, simple solutions, isolationist and divisive rhetoric fuelled by a partisan conservative media, leading to bad policy outcomes that ultimately let down the very people who respond to the clarion call.

Stop the Boats, Axe the Tax, Cut the Debt, Ditch the Witch: all would be at home at any Trump rally.

A government that closed our borders, albeit borders already girt by sea; that turned its back on the scientific consensus on climate change; that willed away complexity by promising no one would suffer. Until they did.

What if Tony Abbott was our Trump moment, sweeping to power on a wave of rage and discontent?

What if the Liberal party was like the Republicans, prepared to turn a blind eye to their leader's transgressions, so long as it delivered them power and its trappings?

And more significantly, what if Australia's decisive rejection of Abbott was more than a personal rebuff, but a rejection of his simplistic, divisive populist model?

What if Malcolm Turnbull is our own Mike Pence, desperately trying to restore sanity and trust but condemned by his own collusion?

What if One Nation is an echo rather than a gathering storm, a direct product of the desperate double dissolution called by the PM as the Coalition attempted to resume normal transmission?

There is some evidence to back this theory. In the post-Abbott era, belief in and support for climate action is back to the levels of the early part of the decade before the bipartisan consensus for a market-based approach was smashed.

Industry has seen what populism did to energy policy and they are now calling for a clear path for energy transition, with a market mechanism to reduce carbon emissions and to support renewables. They know they can't afford to make the same mistake twice.

Meanwhile, the number of people demanding tougher border protection measures for asylum seekers has also fallen away, the border panic that consumed us for a decade finally quelled by the sheer excess of its response.

And in a series of questions posed this week, the majority of the public have responded well to more sober, grown-up messages – with one notable exception.

FULL STORY AT <https://www.theguardian.com/commentisfree/2017/may/30/what-if-australia-already-had-its-trump-moment-and-it-was-tony-abbott>

4. Voters back deportation of asylum seekers if refugee claims fail – Guardian Essential poll

Labor maintains lead over Coalition as disillusionment with politics dominates survey results

The Guardian
Katharine Murphy Political editor
Monday 29 May 2017 16.04 EDT

Australians are behind a recent declaration by the immigration minister, Peter Dutton, that asylum seekers should be deported to their country of origin if their claims for protection are unsuccessful, according to the latest Guardian Essential poll.

The new weekly survey of 1,783 voters suggests 67% of the sample agreed with deportation as a valid course of action, and 53% of the sample disagreed with the statement “the government is too tough on asylum seekers”.

Public opinion was more finely balanced when voters were asked whether asylum seekers who could not be sent safely elsewhere should be brought to Australia when the Manus Island immigration detention centre closed. Thirty-two per cent of the sample agreed with that proposition, while 40% disagreed.

The latest poll has Labor continuing its election winning lead over the Turnbull government post budget, with the ALP ahead of the Coalition on the two party preferred measure 53% to 47%. Last week, Labor led the Coalition 54% to 46%.

This week's Newspann had the same two party preferred result as the latest Guardian Essential survey. All the opinion surveys published since the May budget suggest the Turnbull government is yet to get any tangible political dividend from its pivot to the political centre.

This week's poll suggests the government would be on safe political ground in the event it chose to extend its controversial \$6bn bank levy beyond the big five Australian banks to foreign institutions – which is a position favoured by the key Senate crossbencher Nick Xenophon.

FULL STORY AT <https://www.theguardian.com/australia-news/2017/may/30/voters-back-deportation-of-asylum-seekers-if-refugee-claims-fail-guardian-essential-poll>

5. Manus Island: Government could pay compensation to almost 2,000 detainees over treatment

ABC-TV - Lateline
By Sarah Whyte, Eric Tlozek, Lin Evlin
Tuesday June 13, 2017

Almost 2,000 men detained by the Federal Government on Manus Island may receive compensation for mistreatment, in what legal experts say would be the largest human rights settlement in Australian legal history.

The class action against the Immigration Department is scheduled to commence in the Victorian Supreme Court tomorrow but it is predicted to settle, rather than proceed to a six-month trial.

The ABC understands the men are likely to receive a sizeable payout from the Federal Government if settlement is reached.

The class action is being run by law firm Slater and Gordon on behalf of 1,905 men who were detained on Manus Island between November 2012 and December 2014.

One of the men, Sudanese refugee Abdul Aziz Muhammad, has lived on the island for four years and was there during the outbreak of violence that resulted in the death of fellow detainee Reza Barati, in February 2014.

"It was a really difficult moment for us there and especially for whoever knew Reza Barati and whoever went through that tragedy I think there is nothing on this planet can make you forget what you saw on that night," he said.

"Living on Manus Island I can say it's just like living in hell," he said from Port Moresby in Papua New Guinea where he is receiving medical treatment.

It is not the first time major cases against the Immigration Department have settled without making it to court.

Twenty legal service providers contacted by Lateline reported bringing a combined total of more than 80 compensation cases against the Immigration Department since January 2015.

The majority of those cases settled before going to court, with plaintiffs awarded significant payouts. Most carry strict confidentiality agreements.

Jennifer Kanis, head of social justice at Maurice Blackburn, said the law firm recently settled a case on behalf of a young girl who was held on Christmas Island.

"Every time we get close to having a matter go to court and having those cases ventilated, the Commonwealth settles the claim," she said.

"I can only assume they don't want the public scrutiny about the harm that is being caused by detention or the scrutiny about what needs to be done to redress the harm."

FOI documents reveal \$23.4m in compensation

FOI documents reveal \$23.4m in compensation

Greg Barns, a Hobart-based lawyer, has been advising another class action for 731 men on Manus Island.

He is certain the case will also settle and he estimated the men could receive about \$150,000 each.

"The class action in Papua New Guinea involves really a question of false imprisonment," he said.

"What this means ... [is] that for every day they have been kept unlawfully they are entitled to compensation."

Documents obtained under a Freedom of Information request lodged by the Australian Lawyer's Alliance stated that between 1999 and 2011, the Immigration Department paid \$23.4 million in compensation to people who had been held in Australian-run immigration detention centres.

"Our suspicion is that that number will be a lot higher now because there has been quite a lot of litigation in the last five years," Mr Barns said.

"There's no doubt that there are at any one time around Australia a large number of claims made against the Immigration Department."

Lateline has contacted the Immigration Department for comment.

<http://www.abc.net.au/news/2017-06-13/lawyers-predict-biggest-human-rights-settlement-in-australia/8610780>

6. Manus Island class action: government to compensate former detainees in huge settlement

Canberra Times
June 14 2017 - 1:12PM
Michael Koziol, Benjamin Preiss

The Australian government has agreed to compensate 1900 asylum seekers currently or formerly held at the Manus Island detention centre, in what may be Australia's largest ever human rights-related settlement.

Lawyers Slater and Gordon confirmed the Commonwealth had agreed to reach a conditional settlement of \$70 million plus costs, to be distributed to asylum seekers based on the length of their detention and severity of their alleged injuries. It is understood costs will exceed \$20 million.

Immigration Minister Peter Dutton put the blame back on Labor, which reopened the Manus Island detention centre in 2012, but said settling the case was the "prudent" decision.

"To date, Australian taxpayers have paid more than \$13.7 billion to clean up Labor's loss of control of our borders. Today another \$90 million was added to that bill," he said.

"An anticipated six month legal battle for this case would have cost tens of millions of dollars in legal fees alone, with an unknown outcome. In such circumstances a settlement was considered a prudent outcome for Australian taxpayers."

In settling the case, the government will avoid a long and potentially damaging trial, which was set to last about six months and reveal explosive claims about life and conditions at the Manus Island regional processing centre.

The trial was due to begin in May but was twice delayed, fuelling speculation the parties were headed for settlement.

The lead plaintiff, former Manus detainee Majid Karami Kamasae, claimed on behalf of the group he had been mistreated by the Commonwealth and its contractors on Manus Island during 11 months of detention there in 2013-14.

In a statement read by his lawyers, Mr Kamasae said his treatment on Manus Island was "degrading and cruel", with limited access to medical treatment he needed for severe burns he had sustained in Iran as a child.

"I came to Australia seeking peace, but I was sent to Manus, which was hell," he said. "Every day in the harsh sun, my skin felt like it was on fire. I was in pain every minute of every day ... I cried every night until I had nothing left.

"This case is not just about me, it is about everyone who has been trapped on Manus Island. Our voices have never been listened to, but today we are finally being heard."

In a 166-page statement of claim, lawyers had alleged detainees were housed in lacklustre facilities that were dirty, overcrowded and overheated, were subject to violent and anti-social behaviour from security staff and other detainees, and routinely had insufficient drinkable water, hygiene products and medications, among many other complaints.

A further claim of false imprisonment was added to the class action last year. Mr Dutton said the Australian government strongly refuted and denied the alleged claims, and settlement was not an admission of liability.

Slater and Gordon principal lawyer Andrew Baker said he believed the settlement was the largest for a human rights case in Australian history. He thanked the witnesses who came forward including doctors, security guards and detainees who gave evidence. Lawyers from the firm will visit Manus Island soon to explain the result to detainees.

Slater and Gordon group leader Rory Walsh said the "strong message" from the asylum seekers was to accept the money and avoid a lengthy trial. "We think it is a very good and strong outcome and we think the court will have no hesitation in approving this figure," he said. "When we were offered sufficient money - and we were - we had no hesitation in taking it."

It is not known how much of the settlement amount will be paid by each of the defendants: the Australian government and contractors G4S and Transfield (now Broadspectrum). Mr Walsh said the carve up was confidential and a matter for the defendants.

Separate legal action in the Papua New Guinea Supreme Court, being run on behalf of current detainees in parallel to the Victorian case, is now in question. PNG lawyer Ben Lomai said he would await the instructions of his clients. "If Slater and Gordon settle with the Commonwealth then it is likely that we will seriously consider withdrawing the proceedings in PNG," Mr Lomai told Fairfax Media earlier on Wednesday.

<http://www.canberratimes.com.au/federal-politics/political-news/manus-island-class-action-government-to-compensate-former-detainees-in-huge-settlement-20170613-gwqlu3.html>

7. Government to pay damages to 1,905 Manus Island detainees in class action

Detainees claimed physical and mental injuries in what could be the largest human rights claim in Australian history

The Guardian
Ben Doherty
Wednesday 14 June 2017 10.49 AEST

The Australian government has settled a class action with more than 1,900 Manus Island detainees and will pay damages believed to be in excess of \$100m.

Lawyers for the detainees told the Victorian supreme court in Melbourne on Wednesday that they have reached a settlement with the Australian government and the operators of the Manus Island regional processing centre.

The terms of the settlement have not been disclosed nor finally agreed upon by a judge. But Guardian Australia understands that the compensation will be more than \$100m, or around \$52,000 each.

The 1,905 class action group members were seeking damages for alleged physical and psychological injuries they argue they suffered as a result of the conditions in which they were held on Manus, as well as for false imprisonment.

The amount of compensation is not known, but because of the length of detention, the conditions on Manus, and the number of plaintiffs, it could be the largest human rights settlement in Australian legal history.

The class action, commenced by the law firm Slater and Gordon in December 2014, was run on behalf of 1,905 refugees and asylum seekers who were held at the Manus regional processing centre between November 2012 and December 2014.

That period included the riots of February 2014 during which more than 70 detainees were seriously injured, and Reza Barati was murdered by guards. While alleging that they suffered harm, the detainees claimed that the Australian government maintained "effective control" of the centre and its operations at all times.

In 2016, a second claim for false imprisonment was added to the action, after the Papua New Guinea supreme court ruled that the detention of asylum seekers was unlawful and unconstitutional. The Manus centre remains operational, but is slated for closure in October this year.

<https://www.theguardian.com/australia-news/2017/jun/14/government-to-pay-damages-to-manus-island-detainees-in-class-action>

8. MEDIA RELEASE: No amount of money can compensate for Manus horror

Wednesday June 14, 2017
Refugee Action Coalition
Ian Rintoul
mobile 0417 275 713

The announcement of a possible settlement with Manus asylum seekers and the Australian government for false imprisonment and conditions on Manus Island that caused them physical and psychological harm is an admission that the Australian government is responsible for detention on Manus Island.

"It puts the lie to the continual claims from Peter Dutton, that Manus Island is the responsibility of the PNG government," said Ian Rintoul, spokesperson for the Refugee Action Coalition.

"No amount of money can compensate the asylum seekers sent there unlawfully for the damage that has been done to them. They, and their families, have lost almost four years of their lives. Three people have died.

"The Australian government ignored the order made by PNG Supreme Court in April last year that the Manus detention be closed.

"Now the government will pay for unlawfully imprisoning them. But there won't be justice until the refugees and asylum seekers are brought to Australia.

"The Labor Party, too, must face up to the role that they have played as the government that negotiated an unlawful arrangement with the government of PNG.

"The bi-partisan support for offshore detention must end. We expect Bill Shorten to encourage the Coalition government to immediately bring the asylum seekers and refugees to Australia.

"No amount of money can solve the fact that refugees do not have a future on PNG, Hundreds of people will be left behind regardless of the US resettlement deal.

"The responsibilities of the Australian government for the future and the safety of those on Manus Island did not end with this court case. We expect an apology from Peter Dutton to all those the government has held illegally and we expect an apology for his lies he told when the detention centre was attacked with gunfire on Good Friday."

For more information contact Ian Rintoul 0417 275 713

9. Brutal truth of Australia's detention regime can't be written off. Not even for \$70m

The Australian government was prepared to pay out to stop the shame of Manus Island being aired in court. But the ultimate cost is borne by the refugees and asylum seekers who have had their lives ruined

The Guardian
Ben Doherty
Thursday 15 June 2017 04.00 AEST

This is settlement, but no solution.

The announcement that the Australian government has agreed to pay \$70m in compensation to 1,905 refugees and asylum seekers illegally held in offshore immigration detention on Papua New Guinea's Manus Island will bring a measure of comfort to those held in that place – in the words of one refugee still held there, “a little bit of justice”.

What it will not do is resolve the Kafkaesque limbo the refugees and asylum seekers find themselves in.

The indefinite confinement of 900 men continues after four years, with no definitive way out yet apparent.

Eight months after a much-vaunted deal with the US to take refugees from the Australian detention camps on Manus and Nauru was announced, not a single person has been resettled. Even if the US does take some refugees, Australia concedes it can never resettle all of those who remain under its offshore bailiwick.

It is alleged the government agreed to settle the class action, and to compensate 1,905 refugees and asylum seekers held on Manus, in order to avoid the scrutiny that an open court hearing would bring: that the government will pay any amount of money, contort itself to any legal sophistry, to keep unexamined what it is doing in those secret islands.

The Australian government, through the immigration minister, Peter Dutton, contends its settlement was a “prudent” act, designed to head off potentially far greater costs. It was settled with the condition that the government does not admit liability, and Dutton said it “strongly refutes and denies the claims made in these proceedings”.

In one sense, that this case never made it to court hardly matters. The government cannot say it didn't know of the abuses in that place and nor can the Australian people.

Since the Manus Island detention centre was reopened by Australia in 2012, offshore detention has suffered the indignity of a thousand exposures – from the United Nations, courts foreign and domestic, Australian Senate inquiries and government reports, public whistleblowers, media investigation, human rights and legal groups – but it carries on still. It is bipartisan policy still, indefinitely detaining still.

All of it has been laid bare: the children accidentally sent to adult men's only detention where they were abused, the systemic sexual assault, the violence by guards against detainees, the repeated suicide attempts, the mass hunger strikes, the seriously ill neglected until it was too late and they died, the public servants who ignored the pleas of doctors to move patients because it was “policy” refugees stayed in detention, so again, they died.

On Manus, the brutality reached a zenith in February 2014, when, over three days of rampaging violence, the detention centre was invaded by police, security guards and outsiders. Refugees and asylum seekers were shot, had their throats slit and their eyes blinded. Iranian Reza Barati was murdered by detention centre staff who were supposed to protect him. Repeatedly struck with a nail-barbed piece of wood until he fell over, a rock was dropped on his head.

And all of this is known, all of it uncontested.

A court case would have laid it out in painstaking detail once more. But there is nobody who can honestly say they didn't know.

The settlement, when it is ultimately paid, will go some way to offering redress to those wronged, even if the government maintains its acquiescence is no admission of liability, nor concession of wrongdoing.

But the question remains, what happens next?

The men remain on Manus, with no clearer sense of what their futures will be.

As ever in this debate, the politics poisons the policy.

The issue of irregular migration by boat to this country is presented as a simplistic dichotomy: either open borders and endless boats or the brutality of offshore detention and the violence, abuse and torture it has entailed.

Only the wilfully ignorant would accept such base reductionism.

FULL STORY AT <https://www.theguardian.com/australia-news/2017/jun/15/brutal-truth-of-australias-detention-regime-cant-be-written-off-not-even-for-70m>

10. Tony Abbott and Peter Dutton condemn payout to refugees detained on Manus Island

Former prime minister attacks settlement, which has been welcomed by human rights and legal advocates

The Guardian

Ben Doherty

Thursday 15 June 2017 04.00 AEST

Human rights and legal advocates have welcomed Australia's compensation payout to Manus Island-detained refugees but the former prime minister Tony Abbott and the current immigration minister, Peter Dutton, have condemned the decision and those who sought compensation.

The \$70m plus costs the Australian government and its offshore detention contractors have agreed to pay to 1,905 refugees and asylum seekers held on Manus Island is the largest human rights payout in Australian legal history.

The government agreed to settle, critics say, to avoid the scrutiny of a six-month trial in which dozens of refugees were due to give evidence, along with doctors, security guards and other staff, about conditions inside the secretive detention centres.

However, Dutton said the government's decision to settle was "prudent" and averted the risk of a lengthy and costly trial and potentially much-larger adjudicated payout.

In question time, the immigration minister condemned the plaintiff's legal representative, Slater and Gordon, calling it an "ambulance-chasing law firm".

"There is a little bit of objection from those opposite because there are many of those who worked for Slater and Gordon and others, of course, who received benefits from Slater and Gordon. To this very day Slater and Gordon is a significant Labor party donor."

Dutton said Labor inaction on managing Australia's borders had led to the record payout.

The former prime minister Tony Abbott said on radio station 2GB the decision to compensate those held in detention "looks like a windfall for people who unfairly took advantage of our nation's generosity".

Abbott said: "I don't think this is the sort of case that should have even got to court, let alone resulted in this kind of a settlement."

He also condemned the judges involved in the case, despite the settlement being negotiated between the government's and plaintiff's lawyers.

"We've got a judiciary that takes the side of the so-called victim rather than the side of common sense."

Papua New Guinea's supreme court ruled in April last year the detention centre was "illegal and unconstitutional". It remains open but is slated for closure at the end of October.

The 166-page statement of claim in the class action detailed systematic physical and sexual assault of detainees, inadequate medical care leading to deaths, high rates of suicide and self-harm, and regular outbreaks of violence, including the three-day riots of February 2014 in which more than 70 asylum seekers were seriously injured and Reza Barati was murdered by guards.

Save the Children, the child welfare agency that previously held contracts on both of Australia's offshore detention islands, Manus Island and Nauru, said the settlement ended the "fiction that the fate of these unfortunate individuals is not the responsibility of the Australian government".

"After years of denying it, this settlement is a belated acknowledgement from the Australian government that offshore detention causes physical and psychological harm," its director of policy and public affairs, Mat Tinkler, said. "We saw this firsthand when we worked on Manus Island and Nauru, where the impacts on children were especially dire."

David Manne, the executive director of Refugee Legal, said the government's decision to settle was indication it believed the case against them was strong and its chances of successfully defending the offshore detention regime were slim.

"If the government was so confident of the legality of its treatment of asylum seekers on Manus, you'd expect them to defend the case to the bitter end, not pay out a vast sum so swiftly," he said.

"This payout points to the government seeking to avoid public airing of a strong body of evidence documenting systematic mistreatment and neglect."

Amnesty International's Pacific researcher, Kate Schuetze, said the settlement did not change the immediate situation for the 900 men still confined on Manus. She called for all 2000 refugees and asylum seekers held on offshore detention islands to be brought to Australia.

"This historic settlement is a major crack in the Australian government's crumbling system of abuse and must be a turning point towards a better solution for refugees – one that is grounded in protection not abuse."

The Refugee Council of Australia said the Australian government "folded as they know an independent judicial examination of the practice of offshore detention would shine a light on how brutal, damaging and inhumane these practices are".

"Today should be the final nail in the coffin of Australia's abusive warehousing of people who came to us seeking safety," the council's Tim O'Connor said. "This class action settlement provides an opportunity for our government to put an end to the destruction of so many people's lives, to the damage it does to Australia's international reputation and to the blank cheque our government uses to fund offshore detention."

Australian Lawyers Alliance spokesman Greg Barns said the entire legal action was avoidable.

"Once again Australian taxpayers are footing the bill for the failure of the Australian government to treat asylum seekers lawfully, with basic dignity and respect," Barns said.

"Many of these men have been tortured or otherwise ill-treated at home, before fleeing because their lives or the lives of those who they love were threatened.

"To subject them to these horrific conditions was unnecessary, cruel and unlawful."

<https://www.theguardian.com/australia-news/2017/jun/15/tony-abbott-and-peter-dutton-condemn-payout-to-refugees-detained-on-manus-island>

11. Michael Gordon: Despite what Peter Dutton says, the Manus Island payout is momentous

Canberra Times
June 14 2017 - 3:58PM
Michael Gordon

The biggest human rights payout in Australian legal history is a powerful statement about the cruelty inflicted on vulnerable people who sought protection in Australia – and who is responsible for it.

It is an indictment of the treatment of almost 2000 men by this government and the service providers it engaged to supervise and care for them, and vindication for those who have suffered and fought to have their voices heard.

Immigration Minister Peter Dutton can assert there is no admission of liability, but you don't agree to a payout of more than \$90 million if you are confident you can defend your position in open court.

He can call it a "prudent outcome for the Australian taxpayer", but there wouldn't have been a case in the first place if the human rights of the Manus Island detainees had been respected.

He can blame Labor for losing control of Australia's borders before losing power in 2013, but he can't absolve his government over the harm done over almost four years - harm that continues every day.

The decision to settle the case is prudent in just one sense: it avoids the most forensic, public examination of the treatment of those who were sent to Manus Island against their will after the Gillard government reopened the centre in late 2012.

Had the case proceeded, more than 70 witnesses were expected to give evidence and 200,000 documents would have been examined.

Dutton suggests the decision to settle was pragmatic, avoiding an action that would have run for six months, cost tens of millions in legal fees, and had "an unknown outcome". This is hardly a statement of confidence in the Commonwealth's ability to refute the claims of human rights violations on a huge scale.

Rather than continue to blame Labor for creating the problem, Dutton should be focussed on bringing this sordid chapter to an end.

<http://www.canberratimes.com.au/federal-politics/political-opinion/despite-what-peter-dutton-says-the-manus-island-payout-is-momentous-20170614-gwr0se.html>

12. Martin McKenzie-Murray: The wrong kind of settlement

The decision to settle a massive case on the mistreatment of asylum seekers is more about secrecy than human rights. By Martin McKenzie-Murray.

The Saturday Paper
Edition No. 161 June 17 – 23, 2017
By Martin McKenzie-Murray

Majid Kamasae v the Commonwealth of Australia would have been an enormous trial – a class action representing almost 2000 plaintiffs, reflecting 200,000 documents, comprising 70 witnesses and estimated to run for at least half a year. Despite the Australian government's objection, the trial would also have been broadcast live online – a landmark decision justified, Justice Michael McDonald said, by the public interest and the fact that the majority of plaintiffs, courtesy of their detention, could not be present.

It had been a long time coming. On December 19, 2014, legal firm Slater and Gordon filed the writ in the Supreme Court of Victoria on behalf of its client, Majid Kamasae, accusing the Commonwealth of negligence. In 2016, it would add "unlawful imprisonment" to the class action, after the Supreme Court of Papua New Guinea ruled the detention of men on Manus Island was illegal.

Kamasae, 32 years old when the class action was first declared, had fled Iran the year before, and, like so many detainees on Manus, made his way to Indonesia before finding passage to Australia on a freight boat. In August 2013, Australian authorities intercepted his vessel and Kamasae was taken into custody. After being kept in Darwin for two weeks, he was transferred to Manus Regional Processing Centre where he was detained for 11 months until his transfer, on medical grounds, to Melbourne's Maribyrnong Immigration Detention Centre.

As a teenager, Kamasae had been horrifically burnt in a house fire. Photos show extensive scarring to his face, neck, torso and hands. He almost lost his right ear. According to court documents, Kamasae's injuries have required more than 30 operations over the years. His lawyers alleged that Kamasae's skin condition was not properly managed in detention, that, in fact "the Plaintiff's longstanding burn injuries had regularly required the use of several medical skin creams to apply to the burns and surgical scarring on his face, neck and hands, prior to arriving at the Centre. The cream he required most often was called 'Rejuderm'. Upon his detention by the Commonwealth and prior to his arrival at the Centre, his skin creams were confiscated ... No adequate alternative creams were made available to the Plaintiff while at the Centre, during which time he had little or no means for relief from his skin irritation available to him."

FULL STORY AT <https://www.thesaturdaypaper.com.au/news/politics/2017/06/17/the-wrong-kind-settlement/14976216004800>

13. Richard Ackland: Australian government pays heavy penalty for Manus mistreatment

Irrespective of what Peter Dutton says, this has been a ground-breaking outcome, and Nauru could be Coalition's next headache

The Guardian
Richard Ackland
Saturday 17 June 2017 08.14 AEST

Apart from the excitement of a great heap of money, the settlement of the Manus Island class action was also the moment when numerous old myths were retired to bed. They include (and let me break the iron rule against dot-points):

- The Manus Island regional processing centre is a legal black hole, where the writ of Australian law does not reach;
- The care of and responsibility for the detainees is entirely a matter of the government of Papua New Guinea;
- The conditions at the processing centre and the treatment of detainees is out of sight, out of mind;
- Everything's fine. The detainees are well cared for and free to move around. And if they're not happy it's their own fault because they tried to get to Australia "illegally".

At about \$70m in damages, and another \$20m or so in plaintiff legal costs, it averages out at more than \$35,000 for each of the 1,905 claimants. Peanuts, really, when you consider what they have been through.

It should be emphasised that the result is not the outcome of a trial. Rather, it is a commercial decision by the parties based on assessment of risk, cost, time, defendants' embarrassment and witness stress.

The commonwealth, along with the offshore service providers G4S and Transfield, which later became Broadspectrum, must have accepted that there would be little to no upside in testing the plaintiff's evidence in open court, and the prospect of quite a bit of downside.

It's not the first time the commonwealth has settled litigation brought by refugee claimants. To maintain the policy of secrecy about conditions in these processing centres, the cost of keeping evidence out of court is never too high.

This was the case with individual claims alleging mistreatment at the Baxter and Woomera detention centres.

In the Manus case, there was an additional element created by the supreme court trial judge Michael McDonald who, on 7 April, ruled that the proceedings should be live streamed, not just to the public at large in Australia but internationally as well.

The supreme court of Victoria said this would assist any of the media who were unable to attend the court, and allow schools and universities "to show judicial proceedings for educational purposes".

As far as the defendants were concerned, this was far too much education. The government's initial position was outright opposition to any form of live streaming, but it later said this would be acceptable only via a secure channel and only to members of the class in the case. Broadspectrum adopted the same approach, although G4S did not oppose the orders sought by Slater & Gordon for the lead plaintiff.

For years, journalists' access to the facilities at Manus and Nauru has been blocked, and the Border Force Act made it a criminal offence, with up to two years jail, for the disclosure of "protected information" by "entrusted persons". This prohibition extended to current and former workers engaged by the Department of Immigration and Border Protection, consultants, contractors, and sub-contractors – including doctors and other health workers.

In any event, Transfield/Broadspectrum requires all those within its orbit to sign confidentiality agreements, so there were applications for exemptions to those contractual provisions.

Importantly, one of the numerous preliminary rounds in the Manus case was to secure orders that permitted witnesses to give evidence without facing prosecution by the department. This involved some careful massaging of a provision in the act that exempted witnesses "required" by an order or direction of a court.

Halfway through this case, the government amended the secrecy provisions of the Border Force Act so they no longer applied to health professionals (including doctors).

The same exemption had to be wrestled to the ground in an earlier class action brought on behalf of asylum seekers on Christmas Island. That case also involved numerous applications, including one for access to the compounds to inspect conditions.

Ultimately, the court decided the Christmas Island case did not have class action status and the lead plaintiff settled about a month ago.

In April last year, the supreme court of Papua New Guinea found that the entire Manus Island enterprise was illegal – even if the inmates were being treated humanely. The court said the processing centre was unconstitutional – asylum seekers being "brought to PNG by the Australian government and detained" was contrary to their rights of personal liberty under the PNG constitution.

Lawyers at Slater & Gordon for the plaintiff in the Manus Island case appeared in court more than 50 times on preliminary matters. There were 11 interlocutory judgments, before the settlement announcement on Wednesday, resulting from 28 applications. The commonwealth resisted at every step of the way, including on challenges to public interest immunity and discovery.

The commonwealth said it was the largest public immunity challenge in Australian legal history.

The fourth amended statement of claim is 166 pages long and full of harrowing allegations about neglect, inadequate shelter and accommodation, poor quality food, kitchens with rats running around, filthy toilets, squalid and overcrowded conditions, oppressive heat and humidity, inadequate medical and healthcare, and physical and psychological injuries.

There was also an allegation of false imprisonment. You can read the claim here and all the other pleadings in the case here.

The lawyers assembled a mass of evidence. Conditions at the PNG processing centre had been well documented by Amnesty International, the UNHCR, the Commonwealth Ombudsman and even reports by Guardian Australia. The UN special rapporteur on torture had found that Australia failed to protect refugees from "torture or cruel, inhuman or degrading treatment".

FULL STORY AT <https://www.theguardian.com/australia-news/2017/jun/17/australian-government-pays-heavy-penalty-for-manus-mistreatment>

14. UN official says Australia responsible for 'inhuman' treatment of asylum seekers

Special rapporteur says offshore detention system tarnishing Australia's human rights record and 'cannot be salvaged'

The Guardian

Ben Doherty

Monday 12 June 2017 12.30 AEST

Australia has "clear and undeniable" responsibility for the physical and psychological damage its illegal offshore detention regime has caused to asylum seekers and refugees, a senior UN official has said.

The UN's special rapporteur on the human rights of migrants, François Crépeau, has reported on his visit to Australia last November, saying Australia's strong human rights record was tarnished by an abusive offshore detention system that "cannot be salvaged".

Crépeau said the regime of offshore detention – on Papua New Guinea's Manus Island and the Pacific state of Nauru – was unjustifiably punitive and unlawful "cruel, inhuman and degrading treatment". He said Australia knew the dangerous and helpless situations on Manus and Nauru were damaging those held there.

"Mental health issues are rife, with post-traumatic stress disorder, anxiety and depression being the most common ailments," Crépeau wrote. "Many refugees and asylum seekers are on a constant diet of sleeping tablets and antidepressants. Children also show signs of mental distress ... many adolescents are themselves already on antidepressants."

Crépeau found that refugees and asylum seekers do not feel safe on Nauru. "Many of the migrants reported incidents of verbal abuse, physical attack or theft from the local community ... Despite complaints to the local police, no one is being held accountable and, due to their lack of trust in the local police, incidents most often go unreported.

"The special rapporteur heard accounts of the rape and sexual abuse of female asylum seekers and refugees by security guards, by service providers, by refugees and asylum seekers or by Nauruans, and there is not a proper and independent investigation mechanism in place, making the life of women in the regional processing centres unbearable. Women and girls fear reporting such incidents to the Nauruan police and, even when they are reported, investigation or appropriate sanctions rarely ensue."

Australia has consistently maintained that conditions in offshore detention centres are the responsibility of the governments on whose territory the centres are housed. Crépeau said full responsibility for the centres lies with Australia, which pays for, manages and has ultimate authority over the centres.

"Considering that this situation is purposely engineered by Australian authorities ... and considering that Australian authorities have been alerted to such serious issues by numerous reports from international organisations such as the United Nations and civil society organisations, Australia's responsibility for the physical and psychological damage suffered by these asylum seekers and refugees is clear and undeniable."

Crépeau found the fact and nature of Australia's offshore detention regime was illegal under international law.

"The forced offshore confinement (although not necessarily detention any more) in which asylum seekers and refugees are maintained constitutes cruel, inhuman and degrading treatment or punishment according to international human rights law standards. Australia would vehemently protest if such treatment were inflicted by any other state on Australian citizens, and in particular on Australian children."

In his 21-page report, the special rapporteur also condemned the Australian government's use of the term "illegal" to describe a person who sought asylum. He said the characterisation of people as illegal, when they had not committed a crime, was used to justify indefinite detention.

"While migrants who arrive in countries of destination without documents may be in an 'irregular' or 'undocumented' or 'unauthorised' situation, they have not committed a criminal act," he said. "A human being cannot be intrinsically 'illegal' and naming anyone as such dehumanises that person. The conceptualisation of irregular migrants as 'illegals' has undoubtedly played into the criminalisation of migrants and thus into the use of immigration detention."

Crépeau visited Australia before the announcement of the nascent US deal, under which America would agree to resettle refugees from Australia's offshore detention centres. No refugees have yet been resettled under the deal but interviews and assessments are continuing on both islands.

The special rapporteur was complimentary about Australia's "exemplary" formal refugee resettlement program, singling out the country's additional intake of 12,000 refugees from the Syrian and Iraqi conflicts as a valuable and positive contribution to the global issue of forced displacement.

“The migration policies of Australia give many positive examples, such as the country’s resettlement program, granting humanitarian protection to a high number of refugees with the objective of increasing the number of visas issued to 18,750 per year from 2018, and assisting them in their integration process with generous and well thought through integration programs.”

The Australian government, in a formal response, rejected Crépeau’s report, saying the special rapporteur had made errors in his findings.

Government officials told Crépeau that Australia’s strong border protection policies enabled it to make a “generous contribution to global humanitarian resettlement efforts”.

“Australia takes its international obligations seriously. Immigration detention is an important part of strong border control and supports Australia’s migration system.

“It assists in managing potential risks to the Australian community – including national security, health and character risks – and ensures people are available for removal.”

Australia said health services in offshore detention were provided by private contractors to the Australian government and had been improved.

“The department has implemented an enhanced mental health strategy in Nauru to improve the provision of mental health services to transferees and refugees.”

The office of the special rapporteur on human rights of migrants is a subsidiary body of the human rights council, the powerful UN body to which Australia is seeking election at the end of this year.

Australia is competing against Spain and France for two positions on the council. Elections will take place in November.

While Australia is regarded as a solid chance to be elected to the council, the damaging report from the special rapporteur will weaken its position.

<https://www.theguardian.com/australia-news/2017/jun/12/un-official-says-australia-responsible-for-inhuman-treatment-of-asylum-seekers>

15. MEDIA RELEASE: "Where's Behrouz?" Refugee protest to march to Manus Film World Premiere

Saturday June 10, 2017
Refugee Action Coalition
Ian Rintoul
mobile 0417 275 713

Refugee supporters will march from Town Hall to the world premiere screening of "Chauka, Please Tell Us the Time," on Sunday 11 June at the Sydney Film Festival, to call for the closure of Manus Island detention centre.

The film was secretly recorded on a mobile phone in the Manus Island detention centre over many months by Kurdish refugee, Behrouz Boochani. Boochani was found to be a refugee despite never having made an application in Papua New Guinea and has been adopted by PEN International as a political prisoner.

The screening of the film will bring world attention to the torture of daily life inside Manus Island detention centre and the Australian government's on-going responsibility for their illegal detention.

For almost four years, refugees and asylum seekers have been illegally held on Manus Island. Despite a PNG Supreme Court order in April 2016 that the detention centre be closed, people are still held there with no future.

Boochani, has become well-known as the 'refugee correspondent' of Manus Island documenting the lives and conditions in what he calls "the Manus Prison." Boochani himself has been held in the original Chauka, a brutal isolation punishment unit attached to the Manus detention centre (photo attached). He was found to be a refugee despite never having made an application in Papua New Guinea and has been adopted by PEN International as a political prisoner.

POINTS CUT

Australia Border Force has recently announced that they intend to close the detention centre by October and that Foxtrot compound will be closed at the end of June. Their latest attempt to force people out of the detention centre is a decree that the number of points that can be used at the detention centre canteen has been reduced from 50 to 39 (photo of notice attached).

"Cutting the number of points that people can use is disgraceful attempt to squeeze people out of the detention centre," said Ian Rintoul, spokesperson for the Refugee Action Coalition. "There is nowhere for people to go. Refugees fear they will be in a worse situation if they are forced to move to East Lorengau where mugging and robberies are common and where food has to be brought in each week, because they cannot even buy enough food each week to survive."

"Behrouz's request to attend the film opening at the Film Festival was rejected by the Australian Border Force. We are protesting on Sunday to pose the question, "Where is Behrouz?". It says it all, that the co-director of the film, Arash Kamali Servastani, an Iranian film director who lives in the Netherlands will be at the premiere, but not Behrouz.

"Justice and safety for Behrouz and all the asylum seekers and refugees on Manus and Nauru will only come when the government brings them all to Australia."

PROTEST: "Where's Behrouz?" protest, and call to bring all asylum seekers and refugees on Manus and Nauru to Australia: Sunday 11 June, 10.15am, Sydney Town Hall Square; march to premiere film screening of "Chauka, Please Tell Us the Time," in George Street. Speakers will include RAC, Wendy Bacon, fellow-journalist, and Women in Support of Women on Nauru.

For more information contact Ian Rintoul 0417 275 713

16. Refugee documentaries offer window into banality, brutality and hope

A movie shot on mobile phone on Manus Island and another following asylum seekers stranded in Indonesia shown at Australian film festivals

The Guardian
Ben Doherty
Tuesday 13 June 2017 04.00 AEST

The experience of refugees seeking sanctuary in Australia by boat – and the human impact of Australia's border policies – are the focus of two new documentaries at film festivals across Australia this week.

Chauka, Please Tell Us The Time is the collaborative work of the Manus Island refugee and Iranian journalist Behrouz Boochani and the Dutch-Iranian film-maker Arash Kamali Sarvestani. The film offers a rare glimpse into the banality and brutality of life inside Australia's secretive offshore detention regime.

The documentary was filmed inside the Manus detention centre over the course of months, shot entirely on a mobile phone kept hidden from authorities by Boochani. The pair worked together by distance: Boochani filming short clips and sending them via WhatsApp – and Manus's sclerotic internet – to Sarvestani, who built the narrative of Chauka piece-by-piece.

There is little dialogue for much of the documentary, the stark, simple images are left to carry the story. Repeatedly, Boochani's camera phone will focus on a symbol of freedom – a beach scene, a butterfly, a kitten – only to pull back to reveal the view is one from behind the wire of a three-metre-high steel security fence.

Chauka is the name of a bird indigenous to Manus Island. It was also the name of a notorious secret solitary confinement wing of the Manus detention centre where "non-compliant" refugees, including Boochani, were taken.

The Chauka birds regularly sound their distinctive call throughout the day on Manus – they can be heard repeatedly on the film – and are regarded as unofficial keepers of time by Manusians. But time, as this film shows, has little meaning for 900 men who have been held there in indefinite detention for nearly four years, with no clear ending to their confinement.

The Staging Post follows Muzafar Ali and Khadim Dai, two Afghan Hazara refugees stranded in Indonesia after Australia's Operation Sovereign Borders "stopped the boats" and began forcibly returning asylum seeker vessels to Indonesia. It is screening in Sydney and Melbourne as part of the Refugee film festival.

Ali, a former UN worker in Afghanistan, and Dai, once a national karate champion, fled persecution at the hands of the Taliban but found themselves stuck in Cisarua, outside Jakarta, unable to flee further.

Indonesia is not a party to the refugees convention, so refugees stranded there live an insecure and penurious half-life at the margins of their new community – unable to work, study or build a life, and ever at risk of being arrested and detained.

But amid ongoing concern about what, if anything will come of their futures, The Staging Post is a story of hope.

Stranded, and waiting – potentially for decades – for a chance at resettlement that may never come, Ali and Dai build a community of similarly stranded refugees, and opened the Cisarua refugee learning centre for the children who would otherwise be unable to get an education.

---->>> Chauka, Please Tell Us the Time screens in Sydney, at Event Cinemas in George Street, on 15 June at 8pm as part of the Sydney film festival. It will also screen in Melbourne at Federation Square on 16, 17 and 18 June. The Refugee film

festival is being held in Sydney (17-18 June) and Melbourne (18-24 June). The Staging Post screens at the NSW State Library, Saturday 17 June at 2pm, and at Nova Cinemas, Carlton, on Sunday, June 18, at 6pm

<https://www.theguardian.com/world/2017/jun/13/refugee-documentaries-offer-window-into-banality-brutality-and-hope>

17. Peter Dutton pressures Labor to support Coalition's citizenship crackdown

Immigration minister says Labor has been 'talking down' proposal but he expects independents to support the bill

The Guardian
Gareth Hutchens and AAP
Sunday 11 June 2017 15.31 AEST

The Turnbull government will unveil details this week of its planned changes to make it harder to get Australian citizenship.

The immigration minister, Peter Dutton, will introduce legislation to parliament that extends permanent residency from one year to four before people can apply for citizenship, that toughens English language competencies, introduces a values test and requires people to demonstrate they have integrated into Australian society.

He has briefed Labor on the bill and has called on the opposition to support the bill through both houses.

"I think it's an issue that requires bipartisan support," Dutton said on Sunday. "I suspect we will get support of independent senators ... there's obviously negotiations to take place in that regard but this is an issue where we would want the Labor party to support the government.

"It is a bill that suits the times we're living in and the government is very serious about making sure that people who pledge their allegiance to our country mean it, that they abide by our laws and our values."

The overhaul of the citizenship process – which has been in gestation within the government for months – follows the Coalition's move two months ago to overhaul skilled migration by replacing 457 visas with two new categories that cut off pathways to permanent residency.

In April, Malcolm Turnbull said it was time for a new citizenship test that demonstrated people's allegiance to Australia and whether they were prepared to stand up for "Australian values".

Asked to provide a summary of values he believed all Australians should sign up to, given that people were likely to have different views on that question, Turnbull nominated "mutual respect, democracy, freedom, rule of law ... a fair go".

Senior Labor figures expressed early scepticism about the proposal, including Labor's Senate leader, Penny Wong, who said the proposed citizenship changes looked cosmetic and politically motivated.

But Dutton said on Sunday the citizenship changes were necessary.

He said a key component of the legislation would force people to stay as permanent residents for a longer time period before applying for citizenship. That would give them more time to demonstrate they had integrated into Australian society, through things like holding down a job or making sure their children went to school, he said.

It also allowed the government to consider people's behaviour over a longer period before allowing them to become citizens, rather than just a "point-in-time snapshot", he said.

Four years was on the shorter side of requirements across other western democracies, he said.

"We have a particular problem with gang violence in Victoria at the moment, we're very conscious of that, so for children under the age of 18, for people that haven't been of good character, they will need to face further checks as well," he said.

Dutton also indicated that permanent residents who failed character tests would be still able to stay in Australia unless it was possible to cancel their visas.

"It may mean that they can remain on a permanent visa and become an Australian citizen at some other point in time when they can prove good character, but if they have been involved in violence, gang violence, terrorist-related activities, whatever it might be, then they won't be getting Australian citizenship," he said.

The bill is expected to be sent to a Senate committee for detailed examination before it comes to a vote.

FULL STORY AT <https://www.theguardian.com/media/2017/jun/11/peter-dutton-pressure-labor-to-support-coalitions-citizenship-crackdown>

18. Feedback on controversial citizenship changes to be kept secret

Canberra Times
June 12 2017 - 7:12AM
Michael Koziol

The Turnbull government will keep secret the public's feedback on its proposed changes to the Australian citizenship test, in a marked departure from normal processes, as the controversial bill goes before Parliament this week.

The immigration department confirmed it will not publish submissions to the consultation process designed to inform the final version of its revamped citizenship regime – particularly the introduction of an Australian values test.

Open for the six weeks until June 1, the consultation was supposed to help the government define "Australian values" and to word a new pledge of allegiance to Australia. "We are looking for views," Prime Minister Malcolm Turnbull said in April.

But the department will not air those views publicly, citing confidentiality, nor confirm the volume of feedback received. "Submissions were provided in confidence and were not for publication by the department," a spokesperson said in a statement.

However, several organisations that made submissions told Fairfax Media they did not request the department keep their recommendations private.

The Refugee Council, Federation of Ethnic Communities Councils and the Liverpool Migrant Resource Centre have all published their submissions – critical of the government's proposal – on their websites.

Immigration Minister Peter Dutton on Sunday confirmed a bill to enact the major changes – including a four-year wait before permanent residents can attain citizenship, and tougher English language requirements for aspiring citizens – will be introduced to Parliament this week.

The new regime would allow him, as minister, to revoke the citizenship of migrants suspected of gaining citizenship fraudulently – by lying on the test, for example. It will also require minors to pass a "good character" test to gain citizenship, in a move designed to target young migrant criminals.

"It is a bill that suits the times we're living in and the government is very serious about making sure that people who pledge their allegiance to our country abide by our laws and our values," Mr Dutton said on Sunday.

The citizenship reform package, the second in three years, has attracted the ire of migrant groups and some in Labor's Left faction, who have voiced concerns about unfairly strict English testing and disenfranchising permanent residents for four years.

Labor reserved its position on Sunday, with citizenship spokesman Tony Burke promising to "deal responsibly with any sensible proposal" from the government. Mr Dutton also indicated he was willing to negotiate with the Senate crossbench.

The decision against publishing the public's feedback defies routine practice for government consultations, whereby public submissions are usually published online unless they contain sensitive or defamatory material.

For example, submissions to a consultation on the powers of telecommunications carriers, announced on Friday, will be made public, as will those to current consultations on the NDIS code of conduct, Australia's productivity performance, Indigenous businesses, and the energy efficiency of fan units sold in Australia.

Asher Hirsch of the Refugee Council of Australia said it was vital the citizenship consultation process was transparent and open.

"All too often, the immigration department refuses to release vital information about its policies to the public," he said. "This must not become another secret decision made behind closed doors.

"Unless submissions are stated as confidential, they should be made public to allow the Australian community to judge for itself the harms that these proposed changes will cause."

<http://www.canberratimes.com.au/federal-politics/political-news/feedback-on-controversial-citizenship-changes-to-be-kept-secret-20170609-gwnvow.html>

19. Coalition's citizenship laws would give Peter Dutton power to overrule court decisions

Turnbull government's overhaul would let immigration minister reject decisions made by Administrative Appeals Tribunal

The Guardian

Gareth Hutchens

Monday 12 June 2017 13.25 AEST

Peter Dutton would be given the power to overrule court decisions on citizenship applications that he doesn't think are in Australia's national interest under new legislation.

The Turnbull government will be unveiling details this week of its planned changes that make it tougher to get Australian citizenship.

The legislation will give the immigration minister the power to reject decisions on citizenship applications made by the Administrative Appeals Tribunal if he doesn't think they are in the national interest. He can now reject AAT rulings on visa applications but said he would like the same power for citizenship applications.

"What we're talking about here is just providing the same arrangement that we do for visas now," he told Channel Seven on Monday. "This is really just trying to align the arrangement in terms of citizenship with the laws that exist in relation to granting and cancellation of visas."

He said people could still appeal his decision at the federal and high courts.

The new powers form part of the government's proposed changes that make it harder for people to get Australian citizenship.

The government wants to extend permanent residency from one year to four before people can apply for citizenship, toughen English language competencies, introduce a values test and require people to demonstrate they have integrated into Australian society.

The overhaul of the citizenship process – which has been in gestation within the government for months – follows the Coalition's move two months ago to overhaul skilled migration by replacing 457 visas with two new categories that cut off pathways to permanent residency.

Malcolm Turnbull said in April it was time for a new citizenship test that demonstrated people's allegiance to Australia and whether they were prepared to stand up for "Australian values".

The Greens' immigration spokesman, Nick McKim, has criticised Dutton's proposed citizenship changes, saying they are xenophobic, unfair and must be rejected by Labor.

"Time and again we have seen Peter Dutton grabbing more power for himself, as he tries to make himself judge, jury and jailor," McKim said. "He has repeatedly shown he cannot follow the current laws – now he wants to get rid of the right of the courts to correct his unlawful decision."

"This a draconian measure aimed at undermining multicultural Australia."

Tony Abbott told 2GB radio on Monday the AAT lacked common sense and if tribunal members made "bizarre decisions" they "shouldn't have their contracts renewed".

Dutton said some of the AAT's visa decisions had been hard to accept. "I think some of the decisions they make are rightly overturned and I've done that in relation to a number of cases," he said.

"We have been very deliberate in cancelling visas of people that have committed crimes. Outlaw motorcycle gang members, for example, who are the biggest distributors of ice in this country, we've cancelled a record number of their visas."

"The ability of the way in which the law operates now is they can appeal to the AAT but the minister of the day can substitute that decision of the appeal tribunal, so we're just aligning [the citizenship laws] with that current law."

Dutton also said that, under the new legislation, young migrants may have citizenship refused and their visa revoked if they fail to pass a character test. He pointed to young people involved in the violent Apex gangs in Melbourne, saying they may not get citizenship in the future.

"My view is that if 15, 16, 17-year-olds are involved in adult-like criminal behaviour – that is, following people home from restaurants, breaking into their houses, home invasions, stealing cars, breaking into jewellery shops, at the moment they might be on an automatic pathway to citizenship because their parents have been granted citizenship," he said.

“What I’m saying is, they need to conduct themselves within the law.

“If they don’t, and they fail that good character test, then they could stay on a permanent visa depending on the arrangement but they wouldn’t be getting citizenship.”

<https://www.theguardian.com/australia-news/2017/jun/12/coalitions-citizenship-laws-would-give-peter-dutton-power-to-overrule-court-decisions>

20. Peter Dutton offers 'bizarre' response to Labor's claim on citizenship briefing

Immigration minister rejects Tony Burke's claim he never briefed Labor on proposed changes, saying Burke had been briefed 'three years ago' before Dutton had the immigration portfolio

The Guardian
Gareth Hutchens
Wednesday 14 June 2017 12.04 AEST

The office of the immigration minister, Peter Dutton, has relied on a Hansard transcript from three years ago to support his claim that he has briefed Labor on his proposed citizenship changes.

Tony Burke, the shadow minister for citizenship, accused Dutton of falsely claiming to have briefed Labor on the plans he announced this week.

Burke said the last briefing Labor received was on 8 May.

“Today I see in the papers, a claim that [the citizenship legislation] is somehow linked to national security ... once again, we’ve got changes here that have appeared in the paper that weren’t part of the briefing, that weren’t part of the government’s original proposal,” he said on Tuesday.

But a spokeswoman for Dutton rejected Labor’s claims and said that Burke had been briefed “three years ago”.

Dutton announced plans on Sunday to introduce legislation to parliament that would make it harder to get Australian citizenship, and he called on Labor to support the bill, saying the opposition had been briefed.

On Monday, he announced a second tranche to the bill, saying it would also give him power to overrule decisions by the Administrative Appeals Tribunal on citizenship applications that he did not think were in Australia’s national interest.

He called on Labor to support the bill again, and said the party had been briefed. “They’ve already had a briefing in relation to many of these matters and once they’ve seen the legislation this week they can ask questions,” Dutton said on Monday.

Defending the claim that Labor had been briefed on the AAT proposal at least, Dutton’s spokeswoman pointed to a Hansard transcript from 2014 in which the House of Representatives voted on a bill that granted the immigration minister the power to overrule decisions by the AAT.

She pointed to a passage in the transcript, in which the then-immigration minister, Scott Morrison, told the House:

“[This] bill provides the minister with the power to personally set aside certain decisions of the AAT, if it is in the public interest to do so. Some decisions that have been made by the AAT have led to outcomes that are outside the community standard that citizenship policy is intended to meet. These have included occasions where the AAT has found that people were of good character despite having been convicted of child sexual offences, of manslaughter, of people smuggling or indeed of domestic violence. There should be no excuse for a minister to allow someone to become a citizen in such circumstances.”

She said: “How can Tony Burke say he has not been briefed when he was in the House for the vote?”

The bill to which she referred was the Australian citizenship and other legislation amendment bill 2014. When the bill was introduced, Tony Abbott was still prime minister, Scott Morrison was immigration minister and Peter Dutton was health minister.

Burke was the shadow minister for finance and did not hold a citizenship portfolio. He voted against the bill, which was later stalled in the Senate and lapsed in April 2016.

Burke said he had “no words” when confronted with the argument from Dutton’s office that he had been briefed.

“Turns out the latest version of Peter Dutton’s citizenship package is legislation that was introduced in 2014,” he said. “The incompetence is breathtaking. I’d like to say more but when Peter Dutton becomes this bizarre, I have no words,” he said.

<https://www.theguardian.com/australia-news/2017/jun/14/peter-dutton-offers-bizarre-response-to-labors-claim-on-citizenship-briefing>

21. Tasneem Chopra: Patriot shame: new citizens deserve respect, not contempt

Peter Dutton has introduced the citizenship bill. It's supposed to infer loyalty to Australia but in reality means we can all be mates as long as we're the same

The Guardian
Tasneem Chopra
Thursday 15 June 2017 15.12 AEST

lend in or butt out. Speak up, but stop being confronting. Come forward, but only so far. By perpetually redefining the parameters of what it means to be Australian, the new citizen ideal has morphed into a farce. And now, there's no coding of intentions; it's clear – be part of "team Australia" or leave.

Once upon a time, the notion of attaining citizenship was a goal for immigrants who made a conscious decision to ascribe to a new national identity. For these freshly minted Australians, citizenship was a ceremonious occasion premised on a sense of acceptance; to belong conferred a state of mental, emotional and logistical safety. And once upon a time, our boundless plains to share provided a vicissitude of just that. Fast forward to 2017 though, and how far have we fallen from realising this ideal.

We talk about patriotism as loyalty to country. And presumably loyalty transcends the economic contribution gleaned from finding a job and paying taxes – towards a more value based investment. The idea that loyalty invites a sense of connectedness with country, to support your fellow citizen, respect protocol and systems, to contribute, cooperate, participate in and thrive with your community.

Yet on three counts the revamped citizenship test simultaneously fails itself in testing loyalty. Firstly, it coalesces loyalty with language proficiency. The citizenship bill introduced by immigration minister Peter Dutton on Thursday requires applicants to provide evidence of competent English language proficiency. The minister determines the circumstances of this competency.

According to reports this could require a higher than functional English "IELTS band 6" competency. How can this infer "loyalty"? Interestingly, it has been suggested that certain members of parliament might themselves fail this test given the level of grammar and comprehension tested. Even for me, despite my all Australian schooling, I too would likely struggle.

Importantly, the architects of the IELTS stated it was never intended for a general citizenship test, but rather for aspirants of particular visa categories. To wit, those born and schooled in this country who might fail to achieve this level of competency could technically be ineligible for citizenship in the country of their birth and forefathers. This immediately exposes the proposed changes for what they are: mechanisms to filter out the undesirables, namely refugees and migrants with low socio economic means who would struggle to ever reach the required level without adequate resourcing.

The second sign of failure relating to this citizenship test lies in the tone of policing that has marked the culture of its changes. This government initially fielded views from public institutions including the Refugee Council, the Federation of Ethnic Communities Councils, and the Race Discrimination Commission to inform its definition of "Australian values". However, in a move reminiscent of no-values-at-all, the Turnbull regime decided to withhold these findings from the public. Why? Presumably because the content of these submissions were ignored in preference for bloody-mindedness to enact a self serving agenda. The irony of demanding scrutiny and full disclosure of potential citizens' views and attitudes met with a move that's contrary to this spirit reflects contempt for the very processes they demand. How un-Australian.

Thirdly, this citizenship test has failed itself in a pitiful conflation of citizenship and national security as if the two concepts were mutually aligned. When did aspirational citizenry become a test of our mettle to memorise criminal code? Rather than demonstrate what applicants could contribute, they are interrogated about what is not acceptable. And while there can be zero tolerance of behaviours that we agree are criminal, there are existing protocols to check these vices in the vetting process to acquire refugee and visa eligibility at pre migration. Ergo, the interrogation of criminal intent on a citizenship test is moot. An opportunity to instead test an applicant's loyalty though their shared capacity, vision, social capital and aspirations are missed.

The language, rhetoric and policy defining the establishment is becoming increasingly exclusionary. The subtext reads – everyone is welcome, and we can all be mates as long as we're the same. Not surprisingly, this new direction with the citizenship test has been touted as a stealthier means of reinventing the White Australia policy. Calling out white privilege at this level is an uncomfortable truth, but one I get to make as a concerned citizen. I recall make a submission to the 18C hearing some months ago. Appearing before an almost all male, all white panel of majority MPs, I shared why I believed Section 18C of the Racial Discrimination Act should not be weakened. The sheer irony of that moment was symbolic; as a woman of colour, having to speak before a panel of public servants with full privilege, designated with the power to negotiate what I should be offended by.

Aren't the hallmarks of a progressive democracy to ensure even the most vulnerable and marginalised are protected? One would assume that would include protection from persecution and dislocation. But it would appear that privilege only extends as far as integration does not rupture the status quo. Authoritarian privilege needs to be called out and its flag bearers step aside from the platforms where they dissect, debate and legislate against the very people they exclude from speaking. This country was built on migration. New citizens deserve respect, not contempt.

To the garden variety bigot and law enforcer, let me be clear: If in the name of patriotism to Australia you are marginalising, muting, bullying, insulting or attacking any individual because they look, speak or believe differently to you – you have failed as a citizen.

<https://www.theguardian.com/commentisfree/2017/jun/15/patriot-shame-new-citizens-deserve-respect-not-contempt>

22. Paul Bongiorno: Citizenship opportunism

The Saturday Paper
Edition No. 161 June 17 – 23, 2017
Paul Bongiorno

The great English man of letters Samuel Johnson left the world a pithy aphorism on false patriotism. "Patriotism," he opined, "is the last refuge of a scoundrel." No one knows what prompted the thought but it has been applied unkindly ever since to politicians wrapping themselves in the flag to win favour with voters.

"Scoundrel" is too strong a word to apply to the prime minister and his minister for immigration and border protection, Peter Dutton, as they bang the drum of national security and citizenship. "Opportunists" could fit the bill better.

The government is finding it very hard to land a credible and enduring energy policy beyond 2020. So while it juggles the arguments between the climate change denialists in its midst and those who accept the science but are worried about the politics, better to throw a dead cat on the table. One that, with a bit of luck, will have the Labor opposition at each other's throats. Enter the country's enduring anxiety about migrants.

After telegraphing for almost a year that it is too easy to become an Australian citizen and that they planned to do something about it, the Liberals moved this week. Malcolm Turnbull deftly married the idea to stopping Islamic extremists prone to terrorism, while at the same time bending over backwards to claim he was not targeting any particular nationality or religion. It's an art John Howard perfected. It remains to be seen if Turnbull has learnt the lesson well from the old master.

He framed changes to visa and citizenship requirements in terms of new members of society embracing Australian values and positively contributing to Australian society. More eloquent than Tony Abbott's "Team Australia", he said "we should make no apologies for asking those who seek to join our Australian family to join us as Australian patriots". With resonances of Howard, he said: "Our success as a multicultural society is built on strong foundations which include the confidence of the Australian people that their government and it alone determines who comes to Australia."

FULL STORY AT <https://www.thesaturdaypaper.com.au/opinion/topic/2017/06/17/citizenship-opportunism/14976216004789>

23. Australia refuses to grant grieving wife a visa for refugee husband's funeral

Canberra Times
June 5 2017 - 12:15AM
Michael Koziol

The Australian government has refused to allow a grieving wife to come to Australia for her refugee husband's funeral because it does not trust her to return home.

The father-of-three, who came to Australia by boat before 2013 and was granted protection, died at LaTrobe Regional Hospital on April 16, shortly after his 39th birthday.

Documents provided to Fairfax Media show his wife Masooma applied for an Australian tourist visa on April 23. The application was refused five weeks later, on May 30.

In a letter, an immigration department official acknowledged a "compelling and compassionate" case for granting the visa, but said they also needed to consider Masooma's personal circumstances and the relative attractiveness of Australia compared to Pakistan.

"Although I am very sympathetic to your desire to be present at your husband's funeral during this difficult time, I am not satisfied that the compassionate grounds outweigh the concerns I have over your compliance with the conditions that will be placed on any visa granted to you," the immigration official wrote. Advertisement

"I am not satisfied that your personal and economic circumstances in Pakistan would provide you with incentive to return and your expressed intention only to stay temporarily in Australia is genuine."

The department referenced a phone interview in which Masooma allegedly indicated she had no intention of returning to Pakistan at the end of her Australian visit. Masooma does not speak English, but with the assistance of a translator told Fairfax Media that was not the case.

"I just want to come and see my husband for the last time. For this, I'm just asking for justice," she said. "Once I do it then I have to go back, so that's my wish."

LaTrobe Regional Hospital chief medical officer Simon Fraser confirmed Mr Ali's body remained at the morgue and said the hospital had been in contact with Melbourne's Hazara Shamama Association.

"We are hopeful the issues surrounding Mr Ali's collection and burial will be resolved for the sake of his family," Dr Fraser said.

A spokesperson for the Department of Immigration and Border Protection did not comment on the specific case but said such applications were always "carefully considered". A decision-maker was "obliged" to refuse a visa if they could not be satisfied the applicant met all the required criteria.

"The likelihood of an applicant overstaying or seeking to remain in Australia is a matter that must be assessed," the spokesperson said.

Last year the body of an Afghan refugee, Qurban Ali, languished in a Melbourne morgue for more than seven months after the immigration department refused his wife's visa application for similar reasons.

The migration agent in that case, Marion Le, said a funeral service was eventually held without Mrs Ali because "the body was really starting to deteriorate".

The situation both families found themselves in was "not uncommon", Ms Le said. "It's happening all the time."

Asghar lived in the Gippsland town of Moe, where he worked in a restaurant, and was known to have health issues.

Masooma described her late husband as a "very good father" who loved his children and supported them by sending money home to Pakistan.

"No one can pray for him until he is buried. If you don't do that, he will not rest in peace," she said.

Salehi Khan, of the Hazara Shamama Association, said it would be expensive and potentially dangerous to transport the body back to Hazara Town in Quetta, where Masooma and her three children live.

"As a human being I feel like she deserves to come here," he said. "Her husband deserves a proper funeral. I think it's her right."

<http://www.canberratimes.com.au/federal-politics/political-news/australia-refuses-to-grant-grieving-wife-a-visa-for-refugee-husbands-funeral-20170602-gwiznl.html>

24. Coptic Christians in Australia to have refugee claims reassessed

Review of their status prompted by spate of violent assaults on the religious minority in Egypt

The Guardian
Ben Doherty
Thursday 1 June 2017 10.59 AEST

Coptic Christians who were refused refugee status in Australia will have their claims for protection reconsidered, following a spate of violent assaults on the religious minority in Egypt.

About 20 Coptic families previously facing forced removal from Australia will be given visas to stay in the country while their claims are re-evaluated.

Persecution of Christians in Egypt by terrorists aligned with Islamic State has significantly worsened in recent months, with a series of bombings and targeted massacres.

On Palm Sunday, two Coptic churches – in Tanta and in Alexandria – were attacked by suicide bombers, killing 45 Christian worshippers.

On 26 May, 28 Copts en route to a monastery near Cairo were dragged from their vehicles and executed by gunmen after refusing to recite the shahada – the primary Muslim profession of faith. Christians comprise about 10% of Egypt's population of 95 million. About 85% of the population are Muslim, with the vast majority being Sunni.

The Australian prime minister, Malcolm Turnbull, said the loss of more followers of the Coptic Christian faith to terrorism was "felt deeply by the rest of the Australian community".

"Australia stands united with the Coptic Christians in shared resolve to eradicate the scourge of terrorism," Turnbull said.

Since 2013, about 550 protection visas have been granted to Coptic Christians in Australia. The immigration minister and assistant immigration minister have intervened in about 70 cases this year to grant protection visas.

In parliament on Monday, the Labor member for Wills, Peter Khalil – himself a Coptic Christian born in Egypt – urged the government to halt the removal of Copts from Australia.

“The Copts in Egypt today are under siege, attacked relentlessly by Islamic State,” he told the House of Representatives. “The whole world can see that Islamic State and their affiliates have made the Copts their primary target over the past 12 months.”

On Wednesday, the assistant immigration minister, Alex Hawke, announced updated country information from Egypt and highlighted the increasing danger Copts were facing at the hands of Isis.

Hawke said his office would review all protection applications by Coptic Christians that have been refused by both the immigration department and by the Administrative Appeals Tribunal. It is understood about 20 Coptic families faced removal to Egypt.

“The government will carefully assess cases of Coptic Christians in Australia during this period of emergency in Egypt. Copts in Australia will have an appropriate visa during this period to remain lawfully here,” Hawke said.

“The government actively monitors and updates country information and will continue to work with the Coptic community, the local Coptic Church, the Australian embassy in Egypt and DFAT to ensure immigration decisions reflect the current situation in Egypt.”

The temporary protection is not a guarantee of permanent protection, Hawke said. All claims will still be assessed against international legal criteria for protection.

“Like any other visa applicant, each case will be assessed on its merits with careful consideration given to the identity, authenticity of documents, credibility of claims and character of the applicant. Those found not to engage Australia’s protection obligations will be expected to depart Australia at an appropriate time in the future.”

Coptic Bishop of Melbourne, Anba Suriel, said in response to Hawke’s statement: “I truly hope that you will approve all cases before you. I’m in Cairo and the situation is dire to say the least.”

<https://www.theguardian.com/australia-news/2017/jun/01/hundreds-of-coptic-christians-in-australia-to-have-refugee-claims-reassessed>

25. Refugee tribunal members lose contracts after Peter Dutton criticisms

More than 50 members of Administrative Appeals Tribunal, which oversees government decisions, will not be reappointed

The Guardian
Ben Doherty
Friday 2 June 2017 08.04 AEST

More than 50 members of the Administrative Appeals Tribunal – the independent authority that reviews decisions by the Australian government – have been told they will not have their contracts renewed, after attacks from ministers over decisions the government did not agree with.

The Guardian has been told at least 50, most from the migration and refugee division of the tribunal, have been told they will not be reappointed.

The AAT has been heavily criticised in News Corp newspapers and by the immigration minister, Peter Dutton, for overturning government visa decisions in the past year. The AAT assessed 11,300 visa decisions in the year to April, overturning 39% of Dutton’s decisions.

The criticism focused on a number of particularly controversial cases – the decisions of which have not been published publicly by the AAT – including six Iranian nationals determined to be refugees who had returned to visit Iran, and Jagdeep Singh, a Melbourne taxi driver who pleaded guilty to indecently assaulting a woman.

Dutton condemned the decisions of the tribunal, implying they were motivated by ideological opposition to the government.

“When you look at some of the judgements that are made, the sentences that are handed down, it’s always interesting to go back to have a look at the appointment of the particular Labor government of the day,” he told 2GB radio.

“Anyway, it’s a frustration we live with.”

Law Council of Australia President Fiona McLeod condemned Dutton's comments as an attack on the judiciary's independence, saying tribunal members reviewed- government decisions "in accordance with law, not personal preference or ideology".

"Any suggestion by government that Australian jurists- are not acting with independence is dangerous and erosive to our justice- system," she said. "It undermines the public perception of the legitimate role of the judiciary and weakens the rule of law."

The minister holds an unchallengeable authority to overrule the decisions of the AAT in visa cases on character grounds. New sections were introduced into the migration act by former immigration minister Scott Morrison to give the minister greater powers to overrule AAT decisions.

The original power to overturn the AAT was introduced by Philip Ruddock, when he was immigration minister in 1999, again over government dissatisfaction at tribunal decisions.

In the Singh case, Dutton overturned the AAT's decision and ordered Singh to be deported.

The AAT has 324 members, 94 of whom work full-time. Sixty-five of the 77 members whose terms are due to expire at the end of this month work in the migration and refugee division.

The term of the president of the AAT, former Labor minister Justice Duncan Kerr, expired last month. A replacement has not yet been appointed.

A spokesman for the attorney general, George Brandis, said the terms of a "large number" of tribunal members expire on 30 June.

"Appointments to the AAT are for a fixed term, usually five or seven years. The government will be announcing appointments to these vacancies in the ordinary course."

<https://www.theguardian.com/australia-news/2017/jun/02/contracts-wont-be-renewed-for-refugee-review-tribunal-members>

26. Nauru a 'blemish' on Australia's human rights record, UN official says

ABC News Online
By political reporter Henry Belot
Saturday June 10, 2017

Australia's immigration processing centre on Nauru is a "blemish" on the country's good human rights record, according to a United Nations official.

UN special rapporteur on the human rights of migrants, Francois Crepeau, spent three weeks visiting migration centres last year and has published an extensive criticism of offshore detention.

While Mr Crepeau praised Australia's "exemplary" resettlement policies, he said the Nauru centre eroded human rights and contravened humanitarian obligations.

"For all the progress made by Australia in all other areas of life, several of its migration policies and laws are regressive and fall behind international standards," his report said.

Mr Crepeau visited the centres before the Federal Government announced a resettlement option with the United States Government, allowing as many as 1,250 refugees to leave Nauru and Manus Island.

Despite this, Mr Crepeau said conditions at the Nauru centre were unjustifiably punitive and designed to deter people travelling to Australia without proper authorisation.

"This treatment is predicated on the idea that it sends a message to the smugglers and the potential candidates for maritime smuggling operations," Mr Crepeau said.

"However, it is a fundamental principle of human rights law that one person cannot be punished only for the reason of deterring another."

Mental health issues 'rife' in Nauru

Mr Crepeau said mental health issues were rife in the centre, with many suffering from post-traumatic stress disorder, anxiety and depression.

"Many refugees and asylum seekers are on a constant diet of sleeping tablets and antidepressants," he said.

"Australia's responsibility for the physical and psychological damage suffered by these asylum seekers and refugees is clear and undeniable."

Mr Crepeau was due to visit Nauru in September 2015 but cancelled his trip, citing concerns the Border Force Act would prevent him from "fully and freely" carrying out his duties.

Government criticises 'considerable' errors in report

In response to the report, the Federal Government defended its migration policies and said Mr Crepeau had made a "considerable number" of errors of fact and law.

"The Australian Government reiterates that it is not appropriate to prepare one country report in relation to visits to two independent and sovereign nations, Australia and Nauru," the response said.

Officials told Mr Crepeau its border protection policies had enabled the Government to make "a generous contribution to global humanitarian resettlement efforts".

"Australia takes its international obligations seriously," the report said.

"Immigration detention is an important part of strong border control and supports Australia's migration system.

"It assists in managing potential risks to the Australian community — including national security, health and character risks — and ensures people are available for removal."

The Government also defended its mental health services on Nauru, saying support was provided by the Department of Immigration's contractors.

"The department has implemented an enhanced mental health strategy in Nauru to improve the provision of mental health services to transferees and refugees," the response said.

<http://www.abc.net.au/news/2017-06-10/nauru-a-blemish-on-australias-human-rights-record:-un-official/8606960>

27. Border Force admits it failed in its response to Nauru files abuse claims

Exclusive: Internal emails reveal agency found response to 'major' incidents inappropriate but this was not disclosed to parliamentary inquiry

The Guardian
Paul Farrell and Nick Evershed
Friday 2 June 2017 11.54 AEST

The Australian Border Force admitted internally that it failed to respond appropriately to allegations of sexual assault and abuse on Nauru but did not disclose these findings to a parliamentary inquiry.

A tranche of internal emails obtained by Guardian Australia under freedom of information laws reveals the reaction of the agency after the Guardian's publication of the Nauru files. The agency deployed at least eight Australian Border Force officers to work on it, and contracted staff from KPMG and Hudson recruitment to conduct forensic work and data analysis.

The internal emails show the Department of Immigration and Border Protection set up a special taskforce to assess whether incidents detailed in the Nauru files were appropriately responded to.

The taskforce's final report identifies six incidents with a severity rating of "major" where the immediate action taken was not deemed appropriate. This includes two incidents of an alleged assault on a minor, and one incident involving an alleged sexual assault of a minor. There is also one incident of self-harm where immediate action was not taken.

These internal findings were not disclosed in the department's written submission to a parliamentary inquiry, set up in response to the publication of the files.

"The department continues to assist and support service providers, the government of Nauru, and local Nauruan authorities to support continuous improvement to incident response and reporting practices, including referrals for additional services or to the Nauru Police Force in cases of possible criminal wrongdoing," the department's submission said.

"Of the 281 reports categorised as being major incidents ... 270 incidents had immediate and appropriate action taken ... 11 had insufficient information to determine what actions were taken and accordingly it is not possible to determine if appropriate action was or was not taken."

The 11 incidents with insufficient information include two categorised as “concern for a minor” and two self-harm incidents.

The assessment also acknowledges issues with the classification of incident reports, saying “reporting of incidents in 2013 was poor with a number of incidents misclassified when compared with the incident management framework. This situation progressively improved over the following two years.”

Incident reports in the Nauru files are classified by severity as critical, major, and minor. There is also a large number of reports classified as “information”, or with no classification. However, analysis of incidents classified as “information” in the database, rather than minor, major or critical, shows many incidents that could be considered major or critical.

The internal emails identified 249 minor, unclassified and information incidents that did not have an appropriate response, and 106 where immediate action was not taken. Within these are more than 20 incidents that involve children, as well as family violence incidents. None of these figures was disclosed to the parliamentary inquiry.

The analysis also revealed that previous investigations commissioned by the department did not have complete sets of all incident reports about serious allegations on Nauru.

Previously the department has relied on reviews by the Child Protection Panel and by former integrity commissioner Philip Moss to assess the extent of serious incidents at the Nauru centre.

But the Nauru files taskforce also revealed that six allegations of sexual assaults from their own files were not known to Moss, with a further two unknown. The Child Protection Panel was not aware of five incidents relating to sexual assault, and it was unclear whether they were aware at all of a further 10.

A separate tranche of files also sets out emails from the secretary of the department, Michael Pezzullo. On the morning the Nauru files were published, Pezzullo immediately asked senior staff to undertake an urgent review of the files.

The files show a limited number of other documents on which Pezzullo appears to have handwritten. When Save the Children issued a release setting out that it gave the department all of its incident reports in October 2015, Pezzullo handwrote: “We need to explain our knowledge of the full suite of SCA files – esp handover of data in Oct 2015.”

FULL STORY AT <https://www.theguardian.com/australia-news/2017/jun/02/border-force-admits-it-failed-in-its-response-to-nauru-files-abuse-claims>

28. ASIO chief Duncan Lewis: Radical Sunni Islam, not refugees, the source of terrorism

Canberra Times
May 31 2017 - 8:27AM
Fergus Hunter

Australia's domestic spy chief has been forced to expand on comments he made rejecting a link between refugees and terrorism, after days of intense pressure.

Last week, Duncan Lewis, the director-general of the Australian Security Intelligence Organisation, told a Senate hearing there was "absolutely no evidence" of a connection, rebuffing questions from One Nation leader Pauline Hanson.

In a rare media appearance on Wednesday morning, Mr Lewis said the key point was that "the refugee program is not the source of terrorism in Australia".

"We have had tens of thousands of refugees come to Australia over the last decade or so and a very few of them have become subjects of interest for ASIO and have been involved in terrorist planning," he told ABC radio.

"I'm not denying that. I've not said that there are no terrorists who have not been refugees or who have not been the sons and daughters of refugees born in this country.

"But the context is very important. The reason they are terrorists is not because they are refugees but because of the violent, extremist interpretation of Sunni Islam that they have adopted."

Following his responses to Senator Hanson last week, the senior public servant was criticised by One Nation, conservative commentators and former prime minister Tony Abbott, who suggested ASIO was "tiptoeing around this subject".

They pointed to Lindt siege perpetrator Man Haron Monis, who was granted refugee status, and teenage terrorists Abdul Numan Haider and Farhad Jabar, who were born in Australia to refugee families.

"In all of those cases, they were not terrorists because they were refugees. They were terrorists because of this warped, violent extremist interpretation of Sunni Islam," Mr Lewis said.

"The way they are absorbing it is quite interesting ... In the overwhelming majority of cases, it is a result of online viewing. They are getting online in their lounge rooms, in their bedrooms at a very young age and absorbing some of this very objectionable and brutal material."

He said refugees were not statistically more likely to be involved in terrorism and emphasised the importance of close relations between law enforcement authorities and the Muslim community.

Counter-terrorism experts overwhelmingly backed Mr Lewis' assessment on Tuesday, and cautioned his detractors against inflaming tensions with the Muslim community.

Attorney-General George Brandis, who has asked the director-general to brief sceptical Coalition MPs on the issue, also rallied behind Mr Lewis.

<http://www.canberratimes.com.au/federal-politics/political-news/asio-chief-duncan-lewis-radical-sunni-islam-not-refugees-the-source-of-terrorism-20170530-gwgsex.html>

29. 'If ASIO don't know, nobody knows': Terror experts back spy chief over Pauline Hanson

Canberra Times
May 30 2017 - 6:46PM
Michael Koziol

Counter-terrorism experts have overwhelmingly backed spy boss Duncan Lewis in his assessment there was "no evidence" linking refugees to Islamic terrorism, cautioning his critics against inflaming tensions with Muslims.

Mr Lewis, director-general of the Australian Security Intelligence Organisation, also told One Nation leader Pauline Hanson there was no evidence the children of refugees were more likely to convert to radical Islam.

The comments sparked a wave of criticism from conservative circles. Former prime minister Tony Abbott suggested the ASIO chief was "tiptoeing" around the issue, while commentator Andrew Bolt called on him to retract or quit.

Critics pointed to Lindt siege perpetrator Man Monis, who was granted refugee status, and teenage terrorists Abdul Numan Haider and Farhad Jabar, who were born in Australia from refugee families.

Fairfax Media spoke with half a dozen terrorism experts on Tuesday, all of whom broadly supported Mr Lewis - though some acknowledged he and Senator Hanson may have been talking at cross-purposes.

Greg Barton of Deakin University agreed with the ASIO chief's analysis, arguing "there's a variety of backgrounds for people involved in terrorism", and refugee experience was not a significant factor in radicalisation.

"Lewis is seeing a much bigger and clearer picture than any of us," Professor Barton said. However, "he should have unpacked more of what he was saying", so as not to imply there was "zero connection at all" between migration and terrorism.

Professor Barton said comparisons to the bombing in Manchester, where there are specific problems involving the families of refugees who fled Gaddafi's Libya, were not appropriate. "That's not a dynamic we find in Melbourne and Sydney."

Clarke Jones, director of the Australian Intervention Support Hub at the Australian National University, said his research overwhelmingly endorsed the ASIO boss's position.

"If ASIO don't know, nobody knows," he said. "We've got to have faith in what Duncan Lewis is saying. If they don't believe research and they don't believe ASIO, who are they going to believe?"

Jacinta Carroll, counter-terror expert at the Australian Strategic Policy Centre, said Mr Lewis and Senator Hanson were talking at cross-purposes, and accepted migration was a "factor" in terrorism but not a "lever".

"It isn't a causal link. This is really what the director-general of security was getting to," she said. "He's talking about how you identify terrorism. He chose his language very carefully and it's absolutely correct."

Levi West, director of terrorism studies at Charles Sturt University in Canberra, also deferred to Mr Lewis and said it was "patently false" to suggest refugee status was a contributing factor to extremism.

"What we're looking at is a tiny, tiny, tiny slice of the refugee intake becoming involved in terrorist activity," he said. "Most of them just become taxpayers and mortgage holders and send their kids to school."

Ben Saul, a counter-terrorism law expert at Sydney University, said asylum seekers trying to enter Australia faced some of the strictest screening measures in the world and should be considered less than likely to commit violence.

"Trying to get to Australia as a refugee if you're a terrorist is the worst possible option for you," he said. "The research doesn't show any obvious or clear correlation between refugee status and terrorism."

Anne Aly, a radicalisation expert and now a Labor MP, said it was a "really long bow" to directly link refugee status with terrorism because of the tiny number of examples available as evidence.

In each case, "they didn't come in as radicalised individuals, they became radicalised here", she noted.

"I take his [Mr Lewis'] word over Pauline Hanson's any time," Dr Aly said. "Everyone's become an armchair counter-terrorism expert [but] what people observe is very, very different ... to understanding the whole complexity of the issue."

<http://www.canberratimes.com.au/federal-politics/political-news/if-asio-dont-know-nobody-knows-terror-experts-back-spy-chief-over-pauline-hanson-20170530-gwg2hu.html>

30. US to notify Manus Island detainees about their fate within six weeks

Canberra Times / Reuters

June 16 2017 - 4:21PM

Colin Packham

The US will tell dozens of refugees held in PNG's Manus Island detention centre whether they will be offered resettlement in America within six weeks.

The deadline marks the first concrete timetable for the US-Australia refugee swap arrangement that sparked tensions between the allies after President Donald Trump described it as "a dumb deal" for America.

US officials representing Homeland Security this week returned to Manus Island, home to one of Australia's two offshore detention centres in the Pacific, to conduct medical examinations on 70 men.

The men last month completed "extreme vetting" interviews with in-depth questions on associates, family, friends and any interactions with the Islamic State militant group.

After completing the medical tests, refugees were told to expect a decision on their resettlement applications within six weeks, two of the Manus Island detainees told Reuters on Friday.

"They told me I would get a decision within 45 days," said one refugee who declined to be named for fear for jeopardising his application.

It is not clear how many of the 70 men vetted will be accepted for resettlement in the US.

A spokeswoman for Immigration Minister for Immigration Peter Dutton declined to comment.

Former US President Barack Obama agreed to the deal with Australia late last year to offer refuge to up to 1250 asylum seekers.

In exchange, Australia pledged to take Central American refugees from a centre in Costa Rica.

<http://www.canberratimes.com.au/federal-politics/political-news/us-to-notify-manus-island-detainees-about-their-fate-within-six-weeks-20170616-gwsrig.html>

31. MEDIA RELEASE: Forced relocation stalls on Manus Island

Monday 29/05/2017 6:58:31 AM

Refugee Action Coalition

Ian Rintoul

mobile 0417 275 713

The first efforts to force the relocation of refugees and asylum seekers in the Manus Island have stalled.

Yesterday (Sunday 28 May), although the government has closed the internal gate of Foxtrot compound (photo attached), five Indian asylum seekers remained in N block (photos attached).

The gate separates N block from the rest of Foxtrot compound.

The government has announced its intention to cut off electricity to N block today (Monday, 29 May).

However, attempts are underway to find accommodation for them inside the detention centre. As they are asylum seekers, they are not allowed to move to East Lorengau, which only houses refugees who have signed to accept relocation there.

Refugees who had been living in N block are now lining in Oscar compound. Despite the government's intimidation, none have moved to East Lorengau.

The closure of N block was to be the first stage of the supposed closure of the detention centre.

But the ill-thought out announcement has stalled at the first step, and faces an even bigger hurdle if there is any attempt to force the closure of Foxtrot compound by the end of June.

Foxtrot houses around 250 mostly asylum seekers. They cannot be moved to East Lorengau and there is simply not enough room in the rest of the detention centre to house another 250 in already crowded compounds.

The government is panicked as the Ferrovial contract to run the detention centre ends in October. Neither the Australian government nor the PNG government has any plan to provide secure resettlement of refugees from Manus Island.

While local Manus province officials have ruled out any settlement of asylum seekers or refugees in the province.

There will be a further directions hearing in Port Moresby on 5 June in the long-running Supreme Court case seeking compensation for human rights breaches and "consequential orders" regarding the closure of Manus detention centre and the future of those who have been illegally held there.

There will be no rescue by the US resettlement deal either. Only 70 refugees on Manus have had second interviews and the US officials are not expected back on Manus until August.

"Typically the government has resorted to threats and intimidation as a means to resolve the mess that it has created," said Ian Rintoul, spokesperson for the Refugee Action Coalition. "Pressure is also growing on the Australian government from the PNG government as the PNG government recognises that it has no ability to resettle the people who were dumped on Manus Island.

"There is only one secure way to ensure the safety and future of the people that were unlawfully sent to Manus and have endured almost four years of unlawful detention for no crime - that's to bring them to Australia."

For more information contact Ian Rintoul 0417 275 713

32. Karen Middleton: Peter Dutton's asylum seeker deadline

Peter Dutton's crackdown on 'fake refugees' has sparked claims that his announcement is not only prejudicial but also purely political. By Karen Middleton.

The Saturday Paper
Issue #158 May 27 – June 2, 2017
Karen Middleton

On Monday morning, the phone at Victoria's Refugee Legal service began ringing off the hook. Twenty-four hours earlier, Immigration Minister Peter Dutton had announced that onshore asylum seekers, who for five years had not been allowed to lodge formal protection applications, now had to do so in the next four months or face deportation.

"People are petrified and panicking," Refugee Legal executive director David Manne told The Saturday Paper. "What this does, and what we're seeing, is it also causes profound re-traumatisation, a second wave of suffering ... People deserve a fair go before the law, not an arbitrary deadline."

It wasn't just what Dutton had said that upset Manne and his clients, it was the way he said it.

"I wanted to announce today that the government has taken a decision in relation to those people who are fake refugees," Dutton had begun. "People who are refusing to provide detail about their claim for protection."

Dutton said Australia was among the most generous countries to refugees. "But we aren't going to be taken for a ride by the thousands of people who are refusing to provide details about their protection claims," he continued. "We are not going to allow, given the level of debt that our country is in, for more debt to be run up paying for welfare services for people who are not genuine. We are not going to allow this situation to continue."

David Manne and his colleagues said the statement was effectively a "mass defamation".

“To cast aspersions over thousands of people seeking asylum who haven’t even been able to present their case yet, let alone have it heard, is not only completely unwarranted, it is quite improper and highly prejudicial,” Manne says.

The new deadline affects the 30,500 people who arrived in Australia by boat between August 13, 2012, when the then Labor government suspended processing of claims from those described as “illegal maritime arrivals”, and January 1, 2014, after which time those arriving were sent offshore or turned back.

Those in what’s called the “legacy caseload” have been on bridging visas onshore, waiting for the opportunity to apply for asylum.

FULL STORY AT <https://www.thesaturdaypaper.com.au/news/politics/2017/05/27/peter-duttons-asylum-seeker-deadline/14958072004703>

33. Clock ticking as failed Iranian refugees given 18 months to go

Joe Kelly, Jacob Atkins
The Australian
12:00AM May 27, 2017

Failed Iranian refugees living in the community from October will be transferred to a new short-term visa and given about 18 months to leave the country before they are deemed to be unlawful.

The new visa will deny them access to income support or rental assistance, in an attempt to force them into paid employment and encourage their departure, but they will retain access to Medicare and education for their children.

The 18-month window will also grant the government extra time to resolve a legal “grey area” resulting from Iran’s refusal to accept the forced return of failed asylum-seekers from Australia.

Department of Immigration officials confirmed this week that, as of May 14, there were 2853 Iranians living in the community who had not lodged applications for protection, out of a total cohort of 7194, which included Sri Lankans, Afghans, Rohingya, Pakistanis and Vietnamese.

“Senior departmental sources are believed to be working on a plan to move these individuals onto a short-term visa while departure or removal is organised,” a spokeswoman for Immigration Minister Peter Dutton told The Weekend Australian.

Mr Dutton announced the October 1 deadline for the lodging of applications last week, to expedite processing of the 30,500-strong “legacy caseload” of asylum-seekers who arrived by boat under the former Labor government.

According to government figures, about 3000 have received negative determinations and are being transitioned onto the new departure visa, while a further 6500 were successful in their applications for protection.

About 13,000 are still having their claims assessed, with the remainder — who Mr Dutton has labelled “fake refugees” — set the October 1 deadline to get their protection applications in.

Many Iranians have been living and working in the Australian community since the beginning of the decade and have children at school or university. Those involved in providing them with legal and migration services suggested a very small number would agree to abandon their dream of permanent settlement here.

Ahmad Ghaffari, a Melbourne lawyer and migration agent, said: “I’ve not seen even one person who would tell me about their intention to voluntarily depart Australia if their application for protection visa is refused.”

He said many had established productive lives in the Australian community. “Their children have gone to school here and English is their dominant language. They have embraced Australian culture.”

The president of the Australian Iranian Community Organisation, Siamak Ghahreman, encouraged Iranians to seek help from lawyers or other community groups if they were struggling to fill out their applications on time.

“The asylum-seekers who have not done this yet — it’s not that they don’t want to do it. It’s because there are limited resources for them,” Mr Ghahreman said.

“The view of the government, unfortunately, towards these people (is) they look at them like criminals.”

Mr Ghahreman also suggested that some failed Iranian refugees might try to “hide themselves from the authorities” if they were denied their protection claims because of Iran’s policy not to accept forced returns.

Lewis Stephens, a migration agent who previously reviewed Department of Immigration and Border Protection decisions for the Independent Protection Assessment Office, suggested the government lacked options to remove Iranians.

"Dutton will not speak softly and carry a big stick, he will do the opposite," he said. "I think ultimately they will find a way in which these people are assimilated into the community and the issue will be put to one side."

In 2014 the High Court cur-tail-ed indefinite detention, meaning Iranians who don't go back home can be held for a limited period only, if there is no prospect of their removal from Australia.

A departmental spokeswoman said "if an individual with no lawful basis to remain does not depart voluntarily they will be subject to immigration detention as a last resort. Families may be detained in an alternative place of detention".

<http://www.theaustralian.com.au/national-affairs/immigration/clock-ticking-as-failed-iranian-refugees-given-18-months-to-get-out/news-story/e863eab7d53344a0739cbaa32b545897>

34. Refugee-turned-lawyer helps others in Australia ahead of deportation deadline

ABC News Online
By Jacqueline Breen
Wednesday June 14, 2017

Ahmad Dostizada was 10 years old when his father left Afghanistan and travelled by boat to Australia to seek asylum for the family.

After months in detention and years on a temporary protection visa, his father was recognised as a refugee, winning the right to bring his wife and children to safety.

Now 26 years old, qualified as a lawyer and based in Darwin, Mr Dostizada is assisting asylum seekers who must submit their claims by the recently-announced October 1 deadline or face deportation.

"When I look at these people I remember my father, my dad, when he came to Australia," he said.

"[Being able to help] is very satisfying and gives you very good feelings, about your job, your work, and life in general."

Lawyers and advocates around the country have complained that the October deadline is arbitrary and unfair, although the Government has defended the measure.

But volunteers at the Darwin Asylum Seeker Support and Advocacy Network (DASSAN) say people outside the east coast capitals are at a particular disadvantage because of their limited access to legal help.

Top End asylum seekers without access to pro-bono legal help

There are 33 people in Darwin who are yet to lodge an application for asylum, according to the latest government figures.

They are among 7,500 asylum seekers in Australia who arrived by boat and have not yet lodged a claim for the temporary protection visas available to "illegal maritime arrivals".

Announcing the October deadline last month, Immigration Minister Peter Dutton said the measure was designed to stop "fake refugees" from "[ripping] the Australian taxpayer off" by taking income support and not submitting a protection claim for assessment.

But DASSAN coordinator Sandra Bartlett said that some of those who had not yet submitted a claim have only been eligible to do so since the bar on applications was lifted late last year.

And she said that unlike their counterparts in Sydney and Melbourne, asylum seekers in Darwin do not have access to a pro-bono legal clinic to help with their applications.

"People are coming to organisations like DASSAN, and like the Multicultural Council are saying: 'How do I apply, I want the opportunity to apply, help me,'" she said.

"We're relying on a handful of paid lawyers and migration agents, but there are very few of them that are qualified or experienced in refugee law."

Free access to legal assistance with asylum applications was cut by the Federal Government in 2014.

'A matter of life and death'

Mr Dostizada is one of four private lawyers in Darwin fitting work on protection claims around his day-to-day case-load of criminal and family law matters.

Their support is mostly not pro-bono but Mr Dostizada's firm provides a discounted rate.

He said help with the 40-plus page English language application is crucial.

"At the end of the day it's a matter of life and death," he said.

"If they don't get proper assistance [to lodge] a proper claim for protection then that means they could be deported back to their home country.

"We do as much as we can but in terms of our resources, being a very small law firm, we can't help everyone."

There are no special provisions for asylum seekers in remote or regional areas facing the October deadline.

A spokesman for the Immigration Department said that unaccompanied minors, people in immigration detention or those with "acute barriers to lodging an application" could access the government-funded migration advice.

<http://www.abc.net.au/news/2017-06-14/top-end-asylum-seekers-assisted-by-refugee-turned-lawyer/8615966>

35. 'I don't take orders from the chief justice': How Nauru ousted its judicial leaders

Sealed affidavits of former magistrate Peter Law and former chief justice Geoffrey Eames, both Australian, reveal fresh details of their expulsion

The Guardian
Ben Doherty
Thursday 25 May 2017 16.02 EDT

New details of the Nauru government's harassment and summary dismissal of the country's judiciary – after it had made decisions the government disagreed with – have been detailed before the country's supreme court.

The dismissal of two Australian law officers in 2014 has been presented before the court in another case, involving three MPs expelled from parliament. The 2014 move was condemned internationally as a violation of the rule of law in Nauru.

The affidavits of Nauru's former resident magistrate Peter Law and former chief justice Geoffrey Eames, both Australian citizens, were tendered as evidence in the Nauru supreme court this month.

Acting chief justice Mohammed Shafiullah Khan, having accepted the affidavits, later ordered they be expunged from the record and placed in a sealed envelope on the basis they were not relevant to a determination of the application for a stay by the three MPs.

Law was summarily sacked as chief magistrate of Nauru in January 2014 after Nauruan justice minister David Adeang issued a deportation notice against Australian citizen Rod Henshaw, who was living and running a business in Nauru.

Henshaw sought a stay on his deportation, and Law, as chief magistrate, granted a temporary injunction against the removal.

In his affidavit to the court, Law says he received a text message from the justice minister:

"Peter, I am advised you decided to allow Rod Henshaw's application for a stay on my Order to have him Removed as a Prohibited Immigration, which Order was endorsed by Cabinet, and so Ordered under powers recently given me by the Parliament's recent amendment of the Immigration Act. I trust you will urgently furnish written decision on this matter, preferably by tomorrow. DA."

Law states: "I felt shocked by this message. I believe it was an attempt to influence me and I was left feeling very vulnerable."

Ten days later, on a Sunday morning, police arrived at Law's house with three letters: two terminating his contracts as a magistrate and registrar without reasons, and one removal order, declaring him to be a prohibited immigrant.

He was also given a plane ticket for that afternoon.

The Australian High Commissioner was aware of Law's deportation, the affidavit states. Law telephoned and emailed the chief justice of Nauru, Geoffrey Eames QC, who was in Australia, seeking an injunction against his imminent deportation.

Eames issued an injunction blocking Law's deportation, served to the commissioner of police, the justice minister, the president of Nauru, and to Nauru airlines, stating "breach of this order may constitute contempt of court".

However, police forcibly put Law in a police car and took him to the airport, Law claims in his affidavit.

At Nauru airport, police were served with copies of the injunction to halt Law's deportation. Law's affidavit states an officer defied the injunction, saying: "I don't take orders from the chief justice. I only take orders from the director [of police]."

Law was forced onto the plane and flown back to Australia. Many of his personal items were never returned to him.

In a separate affidavit, Eames detailed a phone conversation he had with Nauru's president Baron Waqa, discussing Law's deportation.

Eames said he told the president: "This decision comes after the minister of justice sent an improper message complaining about his decision and obviously intended to intimidate him into reversing his decision. This decision is being taken with no enquiry and no notice. The timing suggests that it is being taken after his decision in the Henshaw ... case and the only conclusion is that it is a breach of the rule of law.

"The removal I see as being done for political reasons."

Eames booked a flight back to Nauru to arrive the next morning. But hours before he was due to fly, the Nauruan government cancelled his visa and he was told he could not travel to the country where he was chief magistrate.

After two months of not being able to return to the country, Eames resigned.

The dismissals were condemned by the Australian government, the New Zealand government – which has since cut all funding to Nauru's justice system because of concerns over civil rights and rule of law abuses – and by judicial organisations, including the Law Council of Australia, the Law Association for Asia and the Pacific, New Zealand Law Society and 11 individual chief justices across the Pacific.

"Removing judges from office, without any proper process whatsoever, breaches clear international standards on the independence of the judiciary. It also jeopardises the right of people in Nauru, especially those engaged in legal proceedings, to have a fair trial," Sam Zarifi, regional director for the International Commission of Jurists said.

Requests by the Guardian to interview Adeang have not been granted. The Nauruan government has previously defended its treatment of judicial officers. "We consider these accusations an attack on our sovereignty," Baron Waqa said in a statement. "The Nauru government – as an independent, democratic nation – has a right to appoint its judiciary and key personnel. Furthermore, we have a right to dismiss any person not fulfilling their duties in the best interests of Nauru."

Eames' and Law's affidavits were tendered in evidence in a hearing this month for three Nauruan opposition MPs, who led a protest over their expulsion from parliament in 2014.

Lawyers for the three men, who pleaded guilty, are seeking to have their appeal on sentence case stayed while an application by their co-accused (who pleaded not guilty) is heard. The co-accused's application argues they cannot get a fair trial in Nauru because the judiciary is compromised.

The three men were originally sentenced to between three and six months in prison for the protest, which damaged the parliament building and spilled onto Nauru's neighbouring airfield.

The government appealed against that sentence, arguing it was too light, and the sentences were increased to between 14 and 22 months.

The magistrate who imposed the original sentences has also been dismissed.

The three Nauruan MPs have appealed their sentences to Australia's high court.

<https://www.theguardian.com/australia-news/2017/may/26/how-nauru-ousted-its-judicial-leaders>