

## QUESTION TAKEN ON NOTICE

**ADDITIONAL ESTIMATES HEARING : 27 February 2017**

IMMIGRATION AND BORDER PROTECTION PORTFOLIO

**(AE17/009) - UNHCR report - Programme 1.5: IMA Offshore Management**

Senator McKim, Nick (L&CA 22) asked:

Senator McKIM: I am very happy to respond to you. The UNHCR published a report titled UNHCR monitoring visit to Manus Island, Papua New Guinea 11-13 June 2013, and I will quote from that report for you. They are referring to the way that Papua New Guinea conducts its refugee assessments, specifically in relation to the refugee assessments, specifically in relation to the Papua New Guinean migration regulation, which I am sure you are aware of, and they say this about the regulation that it:

... incorrectly applies the limited exclusion provisions of the Refugee Convention to ordinary criminal matters more properly dealt with under Papua New Guinea criminal law, which could lead to wrongful denial of refugee status.

Do you accept that?

Mr Pezzullo: Well, I accept that a report was published three years ago that says that.

Senator McKIM: Well, they have not changed the regulation.

Mr Pezzullo: I would have to seek some advice about what was done to remediate any potential flaw, if such a flaw exists. Perhaps you could assist me, Senator: what is the date of that report?

Senator McKIM: It is 12 July 2013. And the regulation has not changed since.

Mr Pezzullo: But what has been put in place since is a status determination process, which has been done with our assistance and with the engagement of the UNHCR. So, I would have to take some more detailed advice. As I heard your very obviously plain reading of the statement there, it says that it could give rise to risk X. So, how you then put in place a status determination process and how you train your officers and put all the guidance down around those officers and their determination activities—that is how you deal with those sorts of risks. I would be very surprised. I will take it on notice, but I would be very surprised if something as clear as that—and you have read it out plainly, no doubt—that was just simply on the books 3½ years ago has not been attended to in terms of the actual apparatus that was put in place subsequent to that. It is 3½ years ago, I think.

Senator McKIM: Yes. You are right about the date. And we will come back to this as well today. So, if you are able to seek some advice on that in real time, that would be appreciated. But I want to draw your attention to the fact that yes, it did say that it could lead to wrongful denial, but the more important element is earlier in the quote I read out—that is, the regulation 'incorrectly applies' something in the refugee convention. So, it is very clear. There is a risk there that it goes to later, but the assertion is that it incorrectly applies to the refugee convention.

Mr Pezzullo: And what is on my mind is what has happened in the 3½ years since. I will have to have a look at that.

*Answer:*

Papua New Guinea Migration Regulations are a matter for the PNG Government.