



Engagement and Impact 2018

Murdoch University

MUR18 (CAH) - Impact

Overview

Title

(Title of the impact study)

Improving legal practice, community support and high-level policy advice through the study of migration and refugee law and policy

Unit of Assessment

18 - Law and Legal Studies

Additional FoR codes

(Identify up to two additional two-digit FoRs that relate to the overall content of the impact study.)

16 - Studies in Human Society

Socio-Economic Objective (SEO) Codes

(Choose from the list of two-digit SEO codes that are relevant to the impact study.)

94 - Law, Politics and Community Services

Australian and New Zealand Standard Industrial Classification (ANZSIC) Codes

(Choose from the list of two-digit ANZSIC codes that are relevant to the impact study.)

69 - Professional, Scientific and Technical Services (Except Computer System Design and Related Services)

Keywords

(List up to 10 keywords related to the impact described in Part A.)

Refugees

Asylum-seekers

Immigration

Refugee policy

Refugee law

Detention

Human rights

Federal government

Community legal centres

Advocacy

Sensitivities

Commercially sensitive

No

Culturally sensitive

No

Sensitivities description

(Please describe any sensitivities in relation to the impact study that need to be considered, including any particular instructions for ARC staff or assessors, or for the impact study to be made publicly available after EI 2018.)

Aboriginal and Torres Strait Islander research flag

(Is this impact study associated with Aboriginal and Torres Strait Islander content?)

NOTE - institutions may identify impact studies where the impact, associated research and/or approach to impact relates to Aboriginal and Torres Strait Islander peoples, nations, communities, language, place, culture and knowledges and/or is undertaken with Aboriginal and Torres Strait Islander peoples, nations, and/or communities.)

No

Science and Research Priorities

(Does this impact study fall within one or more of the Science and Research Priorities?)

No

Impact

Summary of the impact

(Briefly describe the specific impact in simple, clear English. This will enable the general community to understand the impact of the research.)

A/Prof Kenny's academic and practical expertise in refugee and asylum-seeker law and policy led to her advising the Minister for Immigration and Border Protection, federal Department, and Republic of Nauru government. Some advice led to concrete changes, while a matrix she created to assess refugee status decisions was used by Australia and Nauru for quality assurance. Her research – on children and mental health, but also spanning force-feeding of detainees and suicide risks among the "legacy caseload" of asylum-seekers – assisted the UNHCR, community legal centres and advocacy groups. Her mental health work prompted national consultations where service providers resolved to formulate guidelines for assisting the group. She informed a fraught public debate through interviews and articles.

Beneficiaries

(List up to 10 beneficiaries related to the impact study)

Federal Minister for Immigration and Border Protection

Federal Department of Immigration and Border Protection

Government of the Republic of Nauru

UNHCR

Australian Red Cross and other NGOs

Community legal centres

Asylum-seekers and refugees in detention

Asylum-seekers and refugees in the community

Legal practitioners

Migration agents

Countries in which the impact occurred

(Search the list of countries and add as many as relate to the location of the impact)

Australia
Nauru

Details of the impact

(Provide a narrative that clearly outlines the research impact. The narrative should explain the relationship between the associated research and the impact. It should also identify the contribution the research has made beyond academia, including:

- who or what has benefitted from the results of the research (this should identify relevant research end-users, or beneficiaries from industry, the community, government, wider public etc.)*
- the nature or type of impact and how the research made a social, economic, cultural, and/or environmental impact*
- the extent of the impact (with specific references to appropriate evidence, such as cost-benefit-analysis, quantity of those affected, reported benefits etc.)*
- the dates and time period in which the impact occurred.*

NOTE - the narrative must describe only impact that has occurred within the reference period, and must not make aspirational claims.)

A/Prof Mary Anne Kenny's often multi-disciplinary research on refugee law and policy was inspired and informed by her past practice with community legal centres, continuing pro bono work with refugees and asylum-seekers, visits to detention centres, close links to NGOs, lawyers and advocacy groups, and active commitment to human rights and social justice.

The research, conducted in parallel with her policy analysis and community work, frequently stemmed from reflections on her own practice, and aimed to document practical recommendations. Her national and international reputation, gained through research and award-winning practice, law reform and human rights work, led to her undertaking high-level policy advisory roles:

° In 2012, A/Prof Kenny was appointed to the Minister's Council on Asylum-Seekers and Detention (MCASD), an independent body advising the Minister for Immigration and Border Protection, and the Department, on refugee law and policy. She brought academic rigour and experience of the practical application of law and policy to MCASD's advice, and to its recommendations for improving individuals' situations and the system. MCASD advised on the release of children, families and long-term detainees, and alternatives to detention, such as bridging visas, among other matters. After detention centre visits, MCASD wrote reports which resulted in funded legal assistance for detainees and access to education for children on Christmas Island. The visits also led to A/Prof Kenny securing the release of vulnerable detainees, such as an intellectually disabled Iranian, Maryam Andaveh, in 2013, and a hunger-striking Iranian, Saeed Hassanloo, who was close to death in 2015. MCASD was consulted on development of the Department's 2016 Child Safeguarding Framework.

° In 2012, A/Prof Kenny was appointed to the independent Joint Advisory Committee for Regional Processing Arrangements on Nauru. Extensively consulted by Australia and Nauru on establishing a refugee status determination system, her recommendations that all asylum-seekers receive legal representation, and a three-member review panel be set up, were accepted. A/Prof Kenny regularly visited the centre, advised on the rights of people charged over riots, and engaged with government and policy-makers on improving detainees' conditions and care.

° In 2016, A/Prof Kenny advised the UN's Special Rapporteur on the Human Rights of Migrants on asylum-seeker detention, "fast-track" assessments and Nauru.

° A/Prof Kenny's evidence to the Joint Standing Committee on Migration's 2014 Inquiry into Immigration Detention, arguing for independent review of detention, was cited in the Committee's report. She made a submission to a 2014 Senate inquiry into the planned "fast-track" system. An article she co-authored on guardianship of unaccompanied minors was widely cited in relation to a 2014 Senate inquiry, and quoted in the inquiry report.

° On a grassroots level, she advised lawyers, migration agents and community legal centres on complex cases, and raised their concerns about the impact of law and policy changes via MCASD. She addressed migrant communities and multicultural groups on refugee law and process.

Her research projects included:

° After negotiating an end to the force-feeding of a hunger-striking detainee, A/Prof Kenny researched the practice. One of her articles was published in the Medical Journal of Australia, and she was interviewed on ABC Radio National's Law Report.

In 2013 or earlier, the Department stopped directing doctors to forcibly treat detainees. With A/Prof Kenny's

research the only work on the legal as well as medico-ethical dimensions of the practice, a fellow Joint Advisory Committee member, Nicholas Procter, Professor of Mental Health Nursing at the University of South Australia, says he is "confident that this change ... is in part due to the work of A/Prof Kenny".

° In 2011, the UNHCR asked her to review some 30 Australian refugee status determinations. She developed a matrix for assessing whether they reflected domestic and international law, and evidential requirements; it was later used by the Department and the Nauru government in their quality assurance work.

° From 2010-2014, A/Prof Kenny was a CI on an ARC Linkage study of young asylum-seekers, working closely with the Refugee Advice Casework Service (RACS) in Sydney. RACS gained improved insights into how to talk to young people, compile their claims and support them through the process. It subsequently won a government tender to provide legal services to unaccompanied children. The research, it says, "informs our daily practice working with children".

° A/Prof Kenny published in 2015-2016 on links between the fast-tracking of claims of some 30,000 asylum-seekers who arrived by boat from August 2012 to December 2013 and increased mental health and suicide risks. Hers was the only research on the impact of the system, with its truncated timeframes, limited review process, cuts in legal assistance, and granting of only temporary visas. Concerned by her findings, and a spate of suicides among the group, she circulated advice for legal and mental health service providers, which the Australian Red Cross called "a very timely and useful contribution". Her research prompted the UNHCR to convene national consultations, which she played a major role in organising, and where service providers agreed to develop guidelines for dealing with this group.

A/Prof Kenny informed public debate, casting refugee and asylum-seeker issues in a human rights framework which drew on individuals' experiences. Amid the often fraught debate, she countered political rhetoric and public misapprehensions with fact checks and "explainers" in *The Conversation*. A 2015 piece on whether 1,200 refugees died at sea under Labor was read by nearly 18,000 people. She wrote for the ABC's *Drum* opinion site, and was widely interviewed, including by the ABC, *The Australian* and *Guardian Australia*.

Associated research

(Briefly describe the research that led to the impact presented for the UoA. The research must meet the definition of research in Section 1.9 of the EI 2018 Submission Guidelines. The description should include details of:

- what was researched*
- when the research occurred*
- who conducted the research and what is the association with the institution)*

A/Prof Kenny's research focused on children and mental health, but not exclusively:

° After representing a hunger-striking asylum-seeker who had been force-fed at Western Australia's Curtin immigration detention centre, she researched enforced medical treatment of detainees and published from 2002-2013 on the legal and ethical issues.

° A project she conducted on children and Australian migration law, funded (\$10,000) by the Australian Research Alliance for Children and Youth, produced a book chapter in 2008.

° In 2010-2014, A/Prof Kenny was a CI on an ARC Linkage Project: Small mercies, big futures: enhancing law, policy and practice in the selection, protection and settlement of refugee children and youth (\$461,146.36). She co-authored an article on guardianship (2012), and two book chapters (2015), on settlement of unaccompanied minors and on family reunion, and gave the 2013 Sir Ronald Wilson Lecture on Recent Developments in Refugee Law and Policy, focusing on children, with her address reproduced in the Law Society of WA's journal, *Brief*.

° In 2011, the UNHCR commissioned her to assess whether Australia's refugee status determinations conformed to legal and procedural requirements. She reviewed some 30 decisions.

° In 2015-2016, she published on the mental health and suicide risks of the "legacy caseload" of asylum-seekers who arrived in 2012-2013, waited up to four years for their claims to be processed, then were "fast-tracked" under a new, more restrictive process.

FoR of associated research

(Up to three two-digit FoRs that best describe the associated research)

18 - Law and Legal Studies

16 - Studies in Human Society

References (up to 10 references, 350 characters per reference)

(This section should include a list of up to 10 of the most relevant research outputs associated with the impact)

Kenny, M., Procter, N., Grech., (2016), "Mental Health and Legal Representation for Asylum Seekers in the 'Legacy Caseload'", *Cosmopolitan Civil Societies Journal*, 7, 2, 84-103

Kenny, M., Procter, N., (2015), "The Fast Track Refugee Assessment Process and the Mental Health of Vulnerable Asylum Seekers", *Psychiatry, Psychology and Law (Online)*, 22, 1-7

Kenny, M., Mojtahedi, A., (2015), "Refugee and Asylum Seeking Children and Family Reunion in Australia", in: *Creating New Futures - Settling Children and Youth from Refugee backgrounds*, Federation Press, 226-240

Guerra, C., Quek, S., Kenny, M., (2015), "Settling Well? An Examination of the Settlement Experiences of Unaccompanied Humanitarian Minors in Australia", in: *Creating New Futures - Settling Children and Youth from Refugee backgrounds*, Federation Press, 150-166

Fleay, C., Hartley, L., Kenny, M., (2013), "Refugees and asylum-seekers living in the Australian community: the importance of work rights and employment support", *Australian Journal of Social Issues*, 48, 4, 473-493

Kenny, M., and Fiske, L., (2013), "Regulation 5.35: Coerced treatment of detained asylum seekers on hunger strike. Legal, ethical and human rights implications", in: Juss, S (ed) *The Ashgate Research Companion to Migration Theory & Policy*. Ashgate Publishing, Williston 423-442

Crock, M., Kenny, M., (2012), "Rethinking the Guardianship of Refugee Children after the Malaysian Solution", *The Sydney Law Review*, 34, 3, 437-465

Kenny, M., (2008), "Children and Immigration and Citizenship Law, in: *Children and the Law in Australia*, LexisNexis Butterworths, 238-254

Kenny, M., Silove, D., Steele, Z., (2004), "Legal and ethical implications of medically enforced treatment of detained asylum seekers on hunger strike", *Medical Journal of Australia (A-ranked)*, 180, 237-240

Kenny, M., (2002), "Force-Feeding Asylum Seekers", *Alternative Law Journal*, 27, 3, 107-111

Additional impact indicator information

Additional impact indicator information

(Provide information about any indicators not captured above that are relevant to the impact study, for example return on investment, jobs created, improvements in quality of life years (QALYs). Additional indicators should be quantitative in nature and include:

- name of indicator (100 characters)*
- data for indicator (200 characters)*
- brief description of indicator and how it is calculated (300 characters).)*