

# Project SafeCom News and Updates

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# 1. Richard Ackland: There's no decency in how Australia has treated Abyan. No matter what the truth is

Peter Dutton claims a Somali refugee was whisked out of Australia to foil a game of legal trickery. But the story doesn't stack up

The Guardian

Richard Ackland

Tuesday 20 October 2015 18.08 AEDT

It might be productive to draw breath, stand back and try and assess the extent to which, if at all, Australia is culpable for the moral and/or psychological neglect of the pregnant Somali refugee known as Abyan, who says she was raped on Nauru.

The conflicting positions are by now well settled. Abyan was brought to Australia, where according to the minister for immigration, Peter Dutton, she was attended by counsellors, nurses, doctors and interpreters and then decided she didn't want to embark on a procedure to terminate her pregnancy.

The prime minister, Malcolm Turnbull, used the same line when he was in New Zealand on the weekend.

Abyan was whisked back to Nauru, on a charter flight, where she remains. This flight was arranged as her lawyers headed to the federal court seeking an interim injunction against her removal from Australia. Once she was out of the country on her way to Honiara and then onto Nauru, the court had no jurisdiction.

Abyan and her lawyer, George Newhouse, have a different take. She was not attended by a doctor or a counsellor and there was no interpreter at Villawood detention centre. She was not allowed to talk to her lawyer. Further, she said in a handwritten note passed to the media that, "I have never said thate [sic] I did not want a termination."

It is possible she dictated the note to someone whose English was stronger than hers.

Newhouse says his client told the people at Villawood and at an abortion clinic to which she had been referred, that she would tell them the next day whether she would go ahead with the termination of the 14-week foetus.

Some of this was backed-up by Ian Rintoul, from the Refugee Action Coalition, who also saw her in Australia. Dutton says the version of events being told by "some advocates" is a shameful lie.

However, we can draw our own conclusions on the basis of a trail of evidence, circumstantial and otherwise.

Dutton suggests that Abyan's case may simply be another instance where lawyers acting for refugees brought to Australia for medical treatment bring injunctions preventing their clients' return to Nauru.

The minister says this has happened on 240 occasions. If this is so it represents a soft underbelly of "stop the boats" and would have the government on red alert.

However, is it true? There may well have been 240 instances of applications for interim injunctions, but he produced no evidence all those injunctions against removal from Australia lasted longer than the required medical treatment, or that they turned into final orders of the court.

There's another aspect to this. Why would there be so many medical trips to Australia by refugees and asylum seekers held on Nauru? The obvious conclusion is that we are shamefully incarcerating people on an island without adequate medical facilities or resources as part of a policy of deterrence.

The suggestion that Abyan was removed from Australia peremptorily and for political purposes is also reinforced by the timing of the manoeuvre.

Newhouse sent an email on Friday at 11.58am to the Department of Immigration and Border Protection requesting to meet his client and that she not be removed from the country.

One and a half hours later, Abyan was on a charter plane out of here.

The consequence was that the application for an interim injunction went nowhere and the minister had foiled what he publicly portrayed as legal trickery. He claimed he was protecting women being used as political pawns by lawyers and others.

Importantly, the policy remains unimpeached – no refugee who arrived on a boat in the Abbott era would ever settle in Australia.

There's another telling strand. On Monday, Neil Skill, the first assistant secretary of the immigration department, told Senate estimates that Abyan was taken out of the country on a private charter rather than a commercial airline because of a "risk with regard to non-compliance and disrupting the airline".

The obvious question is why would she be disrupting the airline and being non-compliant if she voluntarily decided to return to Nauru without having had an abortion, as the minister assured us?

It just doesn't stack up.

There's a well trod pattern whereby the Australian government anticipates the consequences of legal proceedings brought on behalf of those detained on Nauru. We saw this in amendments to the Migration Act in June, backdated to August 2012. They sought to put beyond doubt the commonwealth's authority to manage "unauthorised arrivals" and fund regional detention camps.

This anticipated the high court proceedings that were filed in May seeking orders on behalf of a detained Bangladeshi women challenging the legality of Australia's orchestration of the offshore processing regime and its funding.

The timing of the decision whereby all those in detention on Nauru would be able to move around the island also foreshadowed the high court hearing.

Dutton is now saying that the Somali woman may still be able to come back to Australia to terminate her pregnancy. According to reports in The Australian on Tuesday, she doesn't want to come back here for that procedure, although she still wants to have it.

Dutton is an unsympathetic character whose conduct invites a fair degree of scepticism about his assertions.

When you add his concerns about tricky lawyers beating the system, the hastily arranged charter flight and the imperative of protecting the policy setting – there's an even stronger inference that once again Australia has failed not only in its duty of care, but its decency.

And here we are seeking membership of the UN human rights council.

<http://www.theguardian.com/commentisfree/2015/oct/20/theres-no-decency-in-how-australia-has-treated-abyan-no-matter-what-the-truth-is>

## **2. Silenced and sidelined: We've already passed judgment on Abyan, so why bother with courts?**

We sit in our lounge rooms and debate whether Abyan was really raped; whether she should have the abortion; whether she's just after "handouts". In this court of public opinion there's a couple of things missing: Abyan herself, and actual courts, writes Michael Bradley.

ABC The Drum - Opinion

By Michael Bradley

First posted Thu 22 Oct 2015, 7:49am

Updated Thu 22 Oct 2015, 7:58am

Today, Australia is actively and passionately arguing with itself over questions such as whether Abyan was actually raped; whether she really did or did not want an abortion; whether she saw a doctor, or two doctors; whether she really wrote that handwritten note; whether, as a commenter to The Australian said with the confidence that only anonymity can provide: "It certainly is the common practice. Get pregnant and dump it on [the] Australian conscience in the hope that the unwieldy immigration industry lawyers win you a free ride that includes residency with all the handouts and trimmings. This can then be expanded with mass breeding."

Well that's it in a nutshell, isn't it.

Abyan and her lawyers "can play tricks and be clever", as Immigration Minister Peter Dutton said in condemning the lawyers for publicising Abyan's case, but she isn't going to get away with it. Not on this Government's watch. Not now we're all wise to the tricks.

Hell, why don't we fly Abyan back in for a special sitting of the People's Court on The Verdict, where Mark Latham can interrogate her to determine whether she's just feigning the symptoms of depression and anxiety, and then we can all vote on whether she gets an abortion at taxpayers' expense.

Too much? Am I being inflammatory suggesting such a thing? Yes of course, we'd never do anything so disrespectful of a person's human dignity.

"In the end I want to do what's in the best interests of the patient," Mr Dutton said, and Australia nodded in empathy. Empathy with poor Mr Dutton, I mean.

We can rest easy knowing that Abyan's personal wellbeing has been at the forefront of our concerns ever since she washed up in a boat. Notwithstanding that Abyan is an "illegal" immigrant (she isn't really, but why bother anymore), we accepted responsibility for her welfare for just as long as it took to get her to Nauru.

Once there, Abyan became the problem of the Government of Nauru. She had, after all, applied for a visa to enter and stay there (OK, if this is like other cases, the Australian Government would have filled out the visa application form and paid the \$1,000 per month visa fee on her behalf). And she isn't in "detention" there, oh no. As the Government explained to the High Court recently, nobody is being held in immigration detention on Nauru (at least, not since they opened the camp gates, a couple of days before the Government explained to the High Court that nobody is being held in detention). Anyway, Abyan has been assessed by Nauru and accepted as a refugee, so she's free to come and go, to roam Nauru at will. Sure, Australia is footing the entire cost of her accommodation, upkeep and health care, and paying Transfield to provide, umm, logistical facilities such as fences and guards and to keep her, umm, safe in her new home. We're doing that not because we're legally responsible for her, mind, but because we care. Good on us.

It's a melancholy fact, to adopt the Prime Minister's phrase, that Abyan was raped on Nauru. Or not, if you prefer, but anyway we can all agree that she's 14 weeks pregnant.

So, we did the right thing after a bit of delay, flying her back to Australia so she could have the abortion her advocates had been saying she wanted. Then, silly girl, she couldn't make up her mind in the space of four days, so we chartered a plane and flew her back to her home in Nauru. I mean, really, what more could we have done? And then she "writes" a letter saying she never saw a doctor, which Mr Dutton says is just plain wrong. It's no wonder some are starting to suspect that there's a scam going on here.

The verdict is in: Abyan never commanded much of our national sympathy, being a queue-jumping Somali, and now she's sacrificed that by being altogether too difficult and giving poor Mr Dutton conniptions.

This process of judgment by popular opinion is plentifully familiar to us; we do it all the time when someone's accused of a crime. Verdicts are being given in lounge rooms all over the country this week in relation to Kathy Jackson's and Hazem el-Masri's guilt or innocence. We're comfortable with our right to do this to each other, as we are with the possibility of being wrong.

So what's the difference? There is one, and it is fundamental. Magna Carta-level critical, actually. It's simply this: Abyan. She is missing from the picture. She is silent, silenced and removed. This is not a clever lawyer's artifice. Abyan's physical absence from the Abyan argument breaches the most basic protection that our rule of law affords us: the right to access the courts of this country and have them determine our fate.

Ever since Magna Carta, the common law has recognised the human right to be protected against the arbitrary exercise of executive power by the state. The writ of habeas corpus, which courts employ to force authorities to deliver a person to them, is the most powerful emanation of this principle. It's not some ancient anachronism; it is ultimately our only protection from unlimited governmental power.

All Australians have the protection of our courts. They give us due process; the presumption of innocence; natural justice; immunity from arbitrary detention. They allow us to face our accusers, to enforce our rights, to be present and to be heard. Simply, to have our day in court.

Abyan is not Australian. However, she came to Australia and she sought our protection under the Refugee Convention. Like it or not, that made us responsible for her care and gave her the protection of our legal system. Want to talk about lawyer's artifice? That's what we did, by flicking Abyan to Nauru under a legal construct that asserts that we can shirk the responsibility and that she's now outside the reach of Australia's courts.

Abyan was flown out last week on a chartered flight without warning, just in time to avoid a court injunction that would have kept her here, at least temporarily. I understand her lawyers weren't told she was on the plane until after it had left Australian airspace. Mr Dutton called this a victory. It is, of a sort.

Abyan is, for all practical Australian purposes, a non-person. That makes it OK for us to treat her like those other non-persons, reality TV contestants. We decide whether she was really raped; whether she should have stayed in Somalia; whether she should keep the baby and call it Nauru. The Government has promised us we'll never have to confront Abyan herself, nor allow the courts to interfere with the justice we have already meted out to her.

The Government will do literally whatever it takes to keep that promise. That much is clear.

---->>> *Michael Bradley is the managing partner of Marque Lawyers, a Sydney law firm, and writes a weekly column for The Drum. Follow him on Twitter @marquelawyers.*

<http://www.abc.net.au/news/2015-10-22/bradley-we-passed-judgment-on-abyan-so-why-bother-with-courts/6875044>

### 3. Refugee rape victim says Immigration Minister Peter Dutton is telling lies about abortion

Sydney Morning Herald  
October 18, 2015 - 8:46PM  
Tom Allard

The Somali refugee who says she was raped and impregnated on Nauru has flatly denied claims by the Minister for Immigration that she changed her mind about ending the pregnancy after being flown to Australia for an abortion.

The rebuttal comes as family planning and legal experts said the Immigration Department had potentially breached its duty of care by allegedly refusing requests from the woman – known by the pseudonym "Abyan" – to see a counsellor or doctor.

That could leave the federal government up to a civil claim for damages on the grounds of negligence.

After a public campaign, Abyan – who was 14 weeks pregnant – was flown to Australia last week to have the abortion but suddenly returned to Nauru on a chartered jet on Friday.

An injunction by her lawyer, George Newhouse, to prevent her deportation failed because Abyan was already out of the country.

In a statement released on Saturday, Minister for Immigration Peter Dutton said Abyan had "decided not to proceed with the termination" and lawyers and advocates making claims to the contrary should be "ashamed of their lies".

But, in her first comments since her return to Nauru, "Abyan" has said Mr Dutton's description of events – backed by Prime minister Malcolm Turnbull – were false.

"I have been very sick. I have never said thate [sic] I did not want a termination," she said in a hand-written statement which was photographed and sent to Mr Newhouse.

"I never saw a doctor. I saw a nurse at a clinic but there was no counselling. I [also] saw a nurse at Villawood but there was no interpreter. I asked but was not allowed to talk with my lawyer."

Abyan is 23 years old and has been found to be a genuine refugee. Abortion is not readily available on Nauru and Abyan's health reportedly deteriorated dramatically after the alleged rape.

However an Immigration source said that Abyan did in fact see counsellors and doctors, as well as nurses, when she was in Australia. The source declined to reveal just how Abyan communicated her wish not have an abortion.

Family planning and legal experts said Abyan had the right to see counsellors and doctors.

"Any woman requesting counselling in relation to making a decision about whether to continue or terminate a pregnancy has a right to access appropriately specialised services and this is especially relevant in a situation involving trauma and alleged rape," said Deborah Bateson, director of Family Planning NSW.

One of Australia's most prominent health care law experts, Julie Hamblin, said, based on the account by Abyan, the Immigration Department may have breached its duty of care.

"If it is the case that she's fallen pregnant because of sexual assault, there is an obvious risk to her psychological well-being," she said.

"For a person under the control of the Department of Immigration, the government has a duty of care to provide her with access to the treatment she needs. It does not seem unreasonable for the government to agree to provide counselling as a minimum."

She said any breach of the duty of care was "potentially actionable", with the federal government vulnerable to being sued for negligence.

Ms Hamblin also noted that, before an abortion can legally proceed in NSW, a doctor is required to determine that it is necessary to avert a serious risk to the physical or psychological health of the woman.

However, Abyan says she never saw a doctor, only two different nurses – at Sydney's Villawood detention centre and at an abortion clinic.

They inquired, said Mr Newhouse, when she wanted to have the procedure.

"She said 'I'll tell you tomorrow or the next day', and said she wanted to see a counsellor or doctor. She also wanted to speak to me."

Mr Dutton said he believed that advocates were using medical treatment as an excuse to enhance the prospects of refugees being resettled and "appear to be using this woman's circumstance for their own political agenda".

"The woman was brought to Australia for medical attention, not for a migration outcome," he said.

Mr Newhouse, who is special counsel at Shine Lawyers, said he had no instructions from Abyan to make any application for a migration outcome.

He said Abyan was deeply distressed after her return to Nauru and was at serious risk of "physical and mental harm".

Greens senator Sarah Hanson-Young called on Mr Turnbull to intervene.

"It is hard to fathom a more brutal way of treating a scared young woman who has been raped and is struggling with the decision to terminate the pregnancy," she said. "This poor young woman has been through enough, she is scared and traumatised. It's time the minister put his own politics aside for a moment and allowed Abyan to make her own decisions about her body and future, free from pressure and bullying."

<http://www.smh.com.au/federal-politics/political-news/refugee-rape-victim-says-immigration-minister-peter-dutton-is-telling-lies-about-abortion-20151018-gkc21y.html>

## **4. Human rights lawyer urges Peter Dutton to let Somali woman have abortion in Australia**

ABC News Online

By political reporter Stephanie Anderson

Posted Mon 19 Oct 2015, 4:43am

Immigration Minister Peter Dutton has been urged to allow a pregnant asylum seeker to return to Australia for treatment.

The 23-year-old Somali woman known as Abyan was brought to Australia last week for an abortion after allegedly being raped on Nauru, but was flown back to immigration detention on Friday.

Human rights lawyer George Newhouse said his client would now be forced to have the baby, unless she was brought back to Australia.

Mr Newhouse told the ABC that abortions are illegal on Nauru.

"When you ask her what her future is, it's really a matter for the Prime Minister," he said.

"The decision is with the Government.

"She'll be forced to have a baby on the island, unless Peter Dutton sees fit to reverse his decision."

Mr Newhouse said he had not made any moves to apply for Abyan's permanent stay in Australia, dismissing comments made by Mr Dutton over an immigration "racket" involving pregnant asylum seekers.

"We had no instruction to keep her in Australia under a migration scam," he said.

"When we heard an hour before she was being removed from the country without treatment that that was going to happen, of course we tried to stop her going back without treatment.

"But, that was a temporary injunction."

Mr Newhouse said he would be having further legal discussions regarding his client's future today.

Mr Dutton has previously slammed statements from the woman's legal team.

In a statement, he said that some comments were a fabrication and accused some advocates of using the situation "for their own political agenda".

"They should be ashamed of their lies," Mr Dutton said.

<http://www.abc.net.au/news/2015-10-19/lawyer-urges-peter-dutton-to-let-somali-woman-have-abortion/6864668>

## 5. Somali refugee flown out of Australia denies saying she declined termination

Woman known as Abyan rejects Peter Dutton's statement that she changed her mind after coming to Australia for a termination following rape on Nauru

The Guardian

Ben Doherty and Shalailah Medhora

Monday 19 October 2015 09.01 AEDT

The Somali refugee pregnant as the result of an alleged rape on Nauru has denied saying she did not want a termination, and said she "never saw a doctor" before she was secretly flown out of Australia on an RAAF jet.

The comments have been strenuously denied by the immigration minister, Peter Dutton, who on Monday told reporters that not only had the woman sought and received medical treatment and counselling in Australia, she had also been offered services in Nauru.

The 23-year-old woman known as Abyan, who has been recognised as refugee having fled persecution, including sexual violence, in Somalia, was reportedly raped on Nauru in July and became pregnant as a result.

After weeks of pleading to be moved from Nauru, where a termination could not be legally performed, she was brought to Australia last week to have the procedure in Sydney.

The government said that, once in Australia, she changed her mind. She "decided not to proceed with the termination," Dutton said on Saturday.

But in a statement she wrote and signed after being returned to Nauru, provided to Guardian Australia, Abyan said the government was not telling the truth.

"I was raped on Nauru," it said. "I have been very sick. I have never said that I did not want a termination. I never saw a doctor. I saw a nurse at the clinic but there was no counselling.

"I saw a nurse at Villawood but there was no interpreter I asked but was not allowed to talk with my lawyer. Please help me."

Advocates and her lawyers insist she only wanted counselling before the operation. Abyan is 14 weeks pregnant and has other health complications.

Dutton said on Monday that the young woman had been assessed by medical professionals, including general practitioners and mental health nurses, over the five days she was at Villawood detention centre.

She had been offered medical help even before arriving in Australia, he said.

"I am advised that counselling was provided to the lady before she departed Nauru, and assistance otherwise no doubt," the immigration minister said.

He has not ruled out bringing the woman, who alleges that she was raped on Nauru, back to Australia if she decides she does want the termination.

"We'll make a decision that we believe is in the best interests of the patient," Dutton said. "That will be the test that we apply."

A special counsel for Shine Lawyers, George Newhouse, who is acting for Abyan, said he would be talking to the young woman on Monday about her future and any next steps she would like to make in relation to her pregnancy.

Dutton reiterated the point that the federal government would fly refugees or asylum seekers into Australia only if they needed medical attention, but not for a "migration outcome".

Newhouse told ABC Radio on Monday morning that he had never discussed a legal case for Abyan's permanent resettlement in Australia with his client.

"When we heard an hour before she was being removed from the country without treatment that that was going to happen, of course we tried to stop her going back without treatment," the lawyer said. "But, that was a temporary injunction."

Dutton's statement on Saturday said Abyan had "decided not to proceed with the termination". Lawyers and advocates for Abyan insisting otherwise "should be ashamed of their lies", he said.

"Comments from some advocates ... are a fabrication, while others appear to be using this woman's circumstance to their own political agenda."

Last week he said there were about 200 asylum seekers who had been brought from offshore processing centres to Australia on medical grounds who had then sought injunctions to prevent them being returned. He said these “people at the margins” were engaged in a “racket”.

The manner of Abyan’s removal has been especially controversial. In an apparent attempt to beat a court injunction to stop her being moved, the government took the extraordinary step of chartering an RAAF 737 jet to secretly fly her back to Nauru via the Solomon Islands on Friday.

Refugees being moved between Australia and Nauru are normally taken on regular commercial flights.

Lawyers acting for Abyan did not know she had been removed from the country before they appeared in the federal court Friday afternoon. Lawyers for the government told Justice Jacqueline Gleeson Abyan was already out of the country and out of the court’s jurisdiction.

Newhouse emailed senior officials at the Department of Immigration and Border Protection on Friday before Abyan was removed from the country.

“Our client has not decided to refuse a termination and you have completely misunderstood or misconstrued her position which is as set out in my letter ... of 14 October 2015,” he wrote.

“Our client has the right to counselling before a termination and to understand the procedure, that is all we have been seeking and to represent her position as a refusal is disingenuous and cruel.”

In the letter Newhouse requested he be allowed to speak to his client – as afforded by Australian law and the 1951 Refugees Convention – before she was removed.

The request was denied.

Newhouse said the government’s strategy in forcibly removing Abyan was aimed “at avoiding due process and any scrutiny”.

“The conduct of the commonwealth in effectively abducting our client before we could speak to her or bring the matter to the court is astounding.”

Ian Rintoul from the Refugee Action Coalition said the government’s statement was untrue and that she had been rapidly repatriated to avoid the scrutiny of the court. “At no point did Abyan refuse or decline to have a termination.”

Rintoul said he had spoken to Abyan on Friday night and she indicated she wanted to postpone her decision – not change it – because she wanted to discuss the decision with doctors, but had been denied counselling and an interpreter.

“All she did say with that, [was] she would tell them tomorrow or the day after and on that basis it seems they’ve removed her,” he said. “It’s very clear that she was urgently removed from Australia quite deliberately and consciously to avoid there being any possible review of the decision to remove her.”

Abyan reported her alleged assault to caseworkers and to fellow refugees after it occurred but did not go to Nauruan police, she says, because she feared her attacker finding out she had made a complaint.

<http://www.theguardian.com/australia-news/2015/oct/19/somali-refugee-flown-out-australia-denies-saying-she-declined-termination>

## **6. Peter Dutton says advocates for Somali refugee 'Abyan' have let her down**

Sydney Morning Herald  
October 19, 2015 - 11:38AM  
Latika Bourke

Immigration Minister Peter Dutton says advocates for a 23-year old Somali refugee who came to Australia for an abortion but was deported after refusing treatment have let down the alleged rape victim.

Through her Sydney-based lawyer George Newhouse, 'Abyan' has for two weeks pleaded with the Australian government and public to be allowed to travel to Australia for an abortion. She says she fell pregnant after being raped by Nauruan men.

Top immigration officials being questioned at a Senate estimates hearing in Canberra on Monday revealed further details about Abyan's case. Neil Skill from the Immigration Department said that according to caseworkers on Nauru, Abyan had first requested an abortion on September 1.

Mr Skill received the first official brief detailing Abyan's case on 6 October. He said the delay was due to the woman involved not co-operating with medical staff on the island.

"A number of opportunities were provided and offered for assessments, consultations and so on but my information was those were difficult to get the individual to engage in," he said.

Mr Skill said he treated her case as urgent: "I turned that one around in 30 minutes."

The Immigration Department had tried to place Abyan on an earlier flight on 9 October but an illness prevented her from travelling for another two days. On the same day, Mr Dutton gave strong hints Abyan would be brought to Australia and alluded to medical difficulties preventing refugees from travelling overseas.

The government granted her request and on Sunday October 11 flew her to Australia for treatment.

But Abyan was deported back to Nauru five days later amid claims she did not want the termination once she arrived. Her lawyers attempted to seek an injunction in court preventing her deportation, but the government sent the Somali woman on a chartered flight back to Nauru before an injunction could be obtained.

Mr Skill said there was a risk she would be "non-compliant" with the requirement that under Australian law no refugee who had travelled to Australia by boat be resettled in the country.

He said according to caseworkers on the island Abyan was engaging well and talking of her future.

Mr Dutton said on Monday the government had always intended to provide the 23-year old with the medical care she needed in Australia and confirmed she received counselling in Nauru before her flight to the mainland.

"When the lady came to Australia she was seen by a number of nurses, including mental health nurses, a number of GPs and doctors and interpreters were used on many of those occasions in the discussions over a course of days," he told reporters at Parliament House.

"The lady at the end of that was asked whether she wanted a termination and she said no, that she didn't, and did she want an appointment that week, and she said no, she didn't."

Abyan on Sunday released a handwritten statement through her lawyers refuting the minister's claims.

"I have been very sick. I have never said thate [sic] I did not want a termination," she said in a statement which was photographed and sent to Mr Newhouse.

"I never saw a doctor. I saw a nurse at a clinic but there was no counselling. I [also] saw a nurse at Villawood but there was no interpreter. I asked but was not allowed to talk with my lawyer."

Mr Newhouse had previously told Fairfax Media he had told his client to tell immigration officials they should only deal with her through him.

Mr Dutton said the government would not have gone to the expense of flying the woman to Australia if it had no intention of giving her the medical treatment she had requested.

"We wouldn't have chartered a plane from Nauru to come to Australia if we had no intention of providing medical support, it just doesn't make any sense."

The minister left open the possibility of Abyan returning to Australia if she changed her mind but said it was important that any refugee who came to Australia did so for medical treatment unavailable on Nauru and not for a migration outcome, which would undermine the government and opposition's border protection policies.

"Lawyers can rush off to court to seek injunctions, they can play tricks and be clever. In the end I want to do what's in the best interests of the patient," he said.

Mr Dutton also condemned the decision by advocates for Abyan to publicise the case. Mr Newhouse first raised Abyan's plight in the media after claiming to have received no response from the government to her requests for treatment for one week.

At the time he argued Abyan's health and stage of her pregnancy meant her need for an abortion was urgent. Mr Dutton accused the advocates on constantly shifting their story about Abyan's case.

<http://www.smh.com.au/federal-politics/political-news/peter-dutton-says-advocates-for-somali-refugee-abyan-have-let-her-down-20151018-gkc8f8.html>

## 7. Hundreds protest in Sydney in support of Somali refugee allegedly raped on Nauru

ABC News Online

By Jean Kennedy

First posted Mon 19 Oct 2015, 12:30pm

Updated Mon 19 Oct 2015, 1:09pm

Several hundred people have joined a rally in Sydney in support of a Somali refugee who claims she was raped on Nauru and who is at the centre of a dispute with the Immigration Minister over her treatment.

The 23-year-old woman known as Abyan was flown to Australia for an abortion last week, but Immigration Minister Peter Dutton said she decided not to proceed with it and was sent back.

Ian Rintoul from the Refugee Action Coalition said the woman told him that was not the case.

He told the rally, held outside the Department of Immigration offices in central Sydney, that she must be returned to Australia for urgent medical attention.

"She still wants to pursue the termination ... she's still considering that termination," he said.

"She needs to know it's going to happen somewhere where it's going to happen safely.

"She is still on Nauru, she is still distressed, she still needs the medical attention that the Australian Government has not been willing to provide."

Mr Rintoul described her treatment as "beyond disgraceful", saying she had pleaded for medical attention since August but was ignored until there was such a public outcry and the Government could no longer ignore it.

"Compare that with how quickly the Immigration Minister acted to remove Abyan from Australia," he told the Sydney rally.

"He used a specially chartered RAAF jet to fly her out of Australia so he could get her out of the jurisdiction of a court, because they were not willing to have their treatment scrutinised by a court."

Get Up national director Paul Oosting said a similar rally took place in Melbourne and 40,000 people from around Australia also signed a petition calling on the Immigration Minister to bring Abyan back to Australia for urgent medical care.

"She needs to be returned so she can receive the type of care that every other Australian would expect to receive," he said.

"We've heard from Abyan directly that she did not receive the sort of care that this government claims they provided her with."

### ***Nauru 'black site' spread to Australia, activist says***

Julie Macken, from a group calling itself Australian Women in Support of Women on Nauru, told the rally in Sydney that Nauru was a "black site" where there was no independent oversight and no access for the media.

"The situation for Abyan was that when she came to Australia that black site on Nauru spread to Australia," Ms Macken said.

"She had no access to a friendly face, there was no-one who could hold her hand, civil society was locked out of her life, her lawyer was not even allowed access to her on several occasions," she said.

"It is untenable for the Prime Minister, Malcolm Turnbull, to allow Nauru to remain the black site it is."

She told the rally that Mr Turnbull must "step up" and ask that Nauru "allow access to civil society".

"Allow the United Nations the freedom to go there and report on conditions, and ensure the foreign media is allowed access to the site," Ms Macken said.

"Until that happens, we will never know what happened on that island. We will never know what these women are experiencing, we will never be able to support the people of Nauru who have been left with an island that is trashed physically and politically."

<http://www.abc.net.au/news/2015-10-19/sydney-protest-over-treatment-of-allegedly-raped-nauru-refugee/6866400>

## 8. Australia spent estimated \$130,000 on RAAF jet to fly pregnant Somali refugee to Nauru

Abyan taken out of Australia on a charter flight costing around \$11,000 per hour

The Guardian  
Ben Doherty  
Monday 19 October 2015 17.02 AEDT

Australia likely spent more than \$130,000 chartering an RAAF jet to fly pregnant Somali refugee Abyan back to Nauru, government contracts indicate.

Abyan – who was rapidly forcibly returned to Nauru late on Friday – is 15 weeks pregnant as a result of an alleged rape on Nauru. After several weeks of asking to be transferred to Australia to terminate the unwanted pregnancy, Abyan was flown to Sydney on 11 October.

However, after five days in Australia, she was secretly flown out of the country on a specifically-chartered Boeing 737-BBJ jet, without having had an abortion.

Abyan's lawyer George Newhouse told Guardian Australia she was secretly spirited out of the country in order to avoid "due process and any scrutiny".

"The conduct of the Commonwealth in effectively abducting our client before we could speak to her or bring the matter to the court is astounding," he said.

Under questioning in senate estimates on Monday, Neil Skill, the Department of Immigration and Border Protection's first assistant secretary for detention services, said Abyan was taken by private charter because she posed a "risk of non-compliance on a commercial flight".

Peter Dutton, the immigration minister, said on Monday he did not know how much the operation to remove Abyan cost.

But costs of the leases revealed in an FoI request give an indication. The cheaper of the two Boeing 737-BBJ jets leased by Australia costs \$11,326 per flying hour, based on "additional" and "fixed" costs.

Flight data from Friday indicates the plane was brought from Brisbane to Sydney to collect Abyan. It then flew to Honiara in the Solomon Islands, and on to Nauru. It returned to Brisbane on Saturday.

The plane's total flight time was 11 hours and 39 minutes, for a conservative total cost estimate of \$131,947.

The vast majority of asylum seekers and refugees transported between Australia and Nauru are moved on regular commercial flights.

However, chartering the RAAF jets to move asylum seekers, refugees and their escorts between Australia, PNG and Nauru is "quite a regular operation" Skill said.

Skill told estimates that last financial year the jets were used 68 times for onshore transfers, and 11 times offshore.

So far this financial year, the planes have been used 10 times onshore, and 11 times to move people between Australia and Nauru or PNG.

Lawyers representing Abyan were not told she was being moved until she was already out of the country. When they appeared before the federal court seeking an order to keep her from being removed from the country, government lawyers said she had already been flown out of the jurisdiction.

The government says she was rapidly removed from the country because she had changed her mind and did not want to terminate the pregnancy.

Abyan says this is not true. In a signed statement, she said: "I was raped on Nauru ... I have been very sick. I have never said that I did not want a termination."

### ***How the costs are calculated***

The total cost of chartering a special purpose aircraft comprises "additional" and "fixed" costs. Fixed costs include the lease of the aircraft and salaries of the personnel who operate it. The additional costs are for fuel, landing fees and airport handling fees.

The fixed costs are not disclosed publicly, but documents released under FoI have revealed the contract figures: Australia's Department of Defence leases two Boeing 737-BBJs for 1,214 flying hours per year. The lease of one jet costs \$5,643,507, the cheaper plane is leased for \$4,871,867.

Presuming an equal division of flying hours between the two jets, the cheaper jet has a fixed cost of \$8,026 per flying hour.

The most recent figures show the Boeing 737-BBJs have an additional cost of \$3,300 per hour.

Those figures combined give a conservative total cost of \$11,326 per flying hour.

<http://www.theguardian.com/australia-news/2015/oct/19/australia-spent-130000-on-raaf-jet-to-fly-pregnant-somali-refugee-to-瑙鲁>

## 9. Peter Dutton details medical care provided to Somali refugee in Australia

Sydney Morning Herald  
October 19, 2015 - 3:52PM  
Latika Bourke

Immigration Minister Peter Dutton has provided a detailed breakdown of the medical consultations provided to a Somali refugee who pleaded to come to Australia for an abortion but was deported amid claims she changed her mind.

Mr Dutton's statement, provided under questioning from the opposition in Parliament, also shows that the 23-year-old woman, known as "Abyan", was provided with an interpreter for nearly two-thirds of her appointments.

This directly contradicts a hand-written statement said to belong to the Somali refugee who has been deported back to Nauru, with Immigration officials saying she changed her mind about wanting a termination.

The woman, who claims she was raped by Nauruan men, had pleaded with the Australian government to be allowed to come to Australia from Nauru, where abortions are illegal, for the procedure.

In her statement released on Sunday night, Abyan claims: "I never saw a doctor. I saw a nurse at a clinic but there was no counselling.

"I saw a nurse at Villawood but there was no interpreter."

But the Minister told Parliament this was untrue.

"The fact is some of the detail is factually incorrect," he said.

Mr Dutton provided the following breakdown of the care provided to Abyan:

- Sunday, 11 October: Abyan arrives in Brisbane from Nauru on a commercial flight and is reviewed by a primary health nurse. No interpreter is present.
- Monday, 12 October: Abyan is transferred to Sydney's Villawood detention centre. There a mental health nurse and GP review her and an interpreter is present on both occasions.
- Tuesday, 13 October: Abyan is reviewed by a primary health care nurse. An interpreter is present. A mental health nurse and interpreter are also present. She is also seen by a GP and an interpreter is present.
- Wednesday, 14 October: Abyan is reviewed by a nurse and a doctor at the clinic. An interpreter is present.
- Thursday, 15 October: GP reviews Abyan with a primary health care nurse, no interpreter is present.

Abyan was deported back to Nauru on a chartered flight the following day on Friday, 16 October, before her lawyers could seek an injunction preventing her return.

Neil Skill from the Department of Immigration told a Senate estimates hearing on Monday that she had declined to have an abortion that week and also refused the offer of an appointment to have one the following week.

Mr Skill said since her return to Nauru, Abyan had been engaging well and had been talking about her future. He told the parliamentary hearing that upon receiving a brief detailing her case on 6 October, he had turned her case around in 30 minutes.

He wanted to bring her to Australia two days later but an illness prevented her from travelling until the Sunday. The same hearing heard Abyan first told caseworkers on Nauru that she wanted an abortion on September 1.

Mr Skill explained the four-week interval between her first request and when it was finally granted as being due to the woman not co-operating with workers on the island.

Abyan is one of two Somali refugees who say they were raped on Nauru. Nauruan police have closed the second case and say there is no evidence a rape occurred.

In a breach of the alleged victim's privacy, the Australian-based public relations firm acting for the Nauruan government published her name and intimate details of her case.

Opposition Leader Bill Shorten called on the government to provide assurances that Abyan would continue to receive the care she needs.

"I have serious concerns about the way this woman has been treated since she first made her request for a termination," he said.

"This is a distressing and complex case and this government should make it clear that she is being provided with unfettered access to safe and appropriate healthcare and counselling professionals."

Abyan's case attracted Mr Shorten's support and also that of tens of thousands of Australians who signed an online petition calling for her to be flown to Australia for treatment.

The campaign was organised by Abyan's lawyer, special counsel with Shine Lawyers and former Labor candidate George Newhouse. Mr Newhouse says he chose to make Abyan's alleged rape and plea for medical care public after receiving no response from the government to the woman's pleas by the deadline he set the authorities.

Mr Newhouse had previously told Fairfax Media he had told his client to tell immigration officials they should only deal with her through him. He was contacted for comment on Monday.

<http://www.smh.com.au/federal-politics/political-news/peter-dutton-provides-details-of-medical-care-provided-to-somali-refugee-20151019-gkcp45.html>

## **10. Peter Dutton indicates Somali refugee may yet return to Australia for abortion if she asks to**

Minister holds open prospect that woman controversially sent back to Nauru on charter flight could come back again to Australia for termination of pregnancy

The Guardian  
Ben Doherty  
Monday 19 October 2015 19.34 AEDT

The immigration minister, Peter Dutton, has left open the possibility for "Abyan" – the Somali refugee pregnant as a result of an alleged rape on Nauru – to be brought back to Australia again, should she again request a termination of her pregnancy.

Abyan, not her real name, is 15 weeks pregnant as a result of an alleged rape on Nauru.

Her treatment at the hands of the government – who flew her to Australia to terminate the unwanted pregnancy, and then back to Nauru on a secret, hastily-chartered private flight without her having had the procedure – has been the subject of intense controversy. Advocates, the woman's lawyers and politicians argue Australia has further traumatised an already traumatised woman by flying her out of the country to avoid the scrutiny of Australian courts.

The government says the woman was removed from Australia because she changed her mind and did not want the termination.

She has responded with a signed statement that this was untrue: "I have never said that I did not want a termination," her signed, handwritten statement says.

Abyan is now back in her former residence on Nauru.

But speaking on Sky News, Dutton said the government assessed all refugee health cases on their individual medical evidence, and if Abyan decided she did want to proceed with the termination, doctors and specialist staff would continue consultations with her and offer appropriate medical care.

But the minister said there would be reached a "tipping point" after which Abyan could not legally have an abortion in Australia (laws vary significantly between Australian states).

Nauru's restrictive abortion laws mean she cannot terminate her pregnancy in that country. Nor can she have the procedure in Papua New Guinea.

The disputed facts in the Abyan case – who has been recognised as a refugee, having fled persecution, including sexual violence, in Somalia – turn on what medical care and advice she received in Australia.

Dutton told Sky News the woman had had extensive medical care while in Australia.

“We’re talking about four or five days of medical consultations and all through that period we had interpreters present, mental health nurses, GPs, doctors ... at the end of it the advice to us was that she had decided against the abortion,” Dutton said.

Senate estimates spent several largely fruitless hours Monday endeavouring to ascertain the number and nature of the “consultations” she had with medical professionals.

However in her statement Abyan said the government’s version of events was untrue.

“I was raped on Nauru,” it said. “I have been very sick. I have never said that I did not want a termination. I never saw a doctor. I saw a nurse at the clinic but there was no counselling.

“I saw a nurse at Villawood but there was no interpreter.”

Shine Lawyers’ George Newhouse, acting for Abyan, said at no time did Abyan refuse to have a termination, and said the government had “completely misunderstood or misconstrued her position”.

He said she had a right to counselling before a termination and to fully understand the procedure.

“That is all we have been seeking and to represent her position as a refusal is disingenuous and cruel,” said Newhouse.

The government’s decision to secretly and rapidly remove Abyan from Australia has also attracted intense criticism.

Lawyers for Abyan only discovered she had been removed when they appeared before the federal court seeking orders that she remain in the country.

They were told by government lawyers she had already been forcibly removed from the country and was out of the court’s jurisdiction.

Similarly, advocates who had been in consistent communication with Abyan could not contact her for several hours before they discovered she’d been removed from the country without the chance to call them.

Newhouse wrote to the department by email on Friday requesting to meet with her and asking she not be removed from the country.

The email was received and read in the Department of Immigration and Border Protection.

The email was sent at 11:58am. The charter plane carrying Abyan did not leave Sydney until 1:25pm.

Neil Skill, the departmental first secretary charged with making the decision over Abyan’s removal, confirmed to Senate estimates Monday he saw Newhouse’s correspondence, but said he could not recall when he read the letter.

Newhouse was not told of Abyan’s imminent removal, nor was he allowed to speak with her.

The opposition leader, Bill Shorten, said the woman’s situation was “unacceptable” and the Australian people must be assured her best interests were the priority.

“I have serious concerns about the way this woman has been treated since she first made her request for a termination. We need to know that this woman is being treated with dignity,” Shorten said.

<http://www.theguardian.com/australia-news/2015/oct/19/somali-refugee-can-return-to-australia-for-abortion-if-she-wants-says-peter-dutton>

## **11. Abyan case: Dutton criticises media coverage of alleged rape victim as 'unhelpful', 'regrettable'**

ABC News Online

By political reporter Stephanie Anderson

First posted Fri 23 Oct 2015, 1:41pm

Updated Fri 23 Oct 2015, 5:01pm

Immigration Minister Peter Dutton has criticised the continued coverage of a pregnant refugee, describing reporting of her case as unhelpful.

The 23-year-old Somali woman was brought to Australia earlier this month after allegedly being raped on Nauru, but was returned without treatment several days later.

The woman, known as Abyan, had been seeking an abortion and contention remains as to whether she decided against a termination before being flown out of Australia.

Mr Dutton was asked if she would be brought back to the country for treatment, but declined to answer.

He said the Australian Government had already provided support to Abyan, but "she decided that she didn't want the termination and was returned to Nauru".

"I said at the time that I thought it was very regrettable that the personal details were being played out in public," he said.

"I don't think it's helpful for us to continue to talk about what is a very private matter, a matter of grave personal importance, a decision that should be made and a discussion that should be had between a patient and a doctor."

His comments follow a call from the Greens for the appointment of an independent advocate for Abyan.

Greens senator Sarah Hanson-Young told the ABC on Wednesday she would be writing to Prime Minister Malcolm Turnbull, citing the need for a "circuit breaker".

"We believe the Government should appoint an independent advocate for her," she said.

"Somebody who can ensure that she gets the help that she needs and that the communication with her about what she wants is absolutely crystal clear to everybody."

Senator Hanson-Young suggested the job could go to Philip Moss, the former integrity commissioner who previously conducted an investigation into alleged child sexual abuse in Nauru's immigration detention centre.

"He knows Nauru and could act quickly," she said.

The Nauruan government has confirmed that police visited Abyan earlier this week, but she declined to make a statement.

The government's official Twitter account posted that "without a complaint, cooperation or evidence, police cannot act".

<http://www.abc.net.au/news/2015-10-23/dutton-criticises-media-coverage-of-abyan-case/6880612>

## **12. MEDIA RELEASE: Abyan needs help, not harrassment**

Wednesday October 21, 2015  
Refugee Action Coalition  
Ian Rintoul  
mobile 0417 275 713

The aggressive attempts by the Nauruan police to interview Abyan reveal their complete lack of concern for the privacy and welfare of a sexual assault victim.

The actions of the Australian government and the Nauruan police have left Abyan exposed to retribution and vulnerable to further harassment and abuse.

The police and media visit to Abyan's accommodation on Nauru left her in such a distressed situation that she asked if she could be taken into the detention compounds to gain some protection and security.

Such police harassment of a victim of sexual assault would not be tolerated in Australia. "Abyan's safety on Nauru has been further compromised by the actions of the Nauruan police," said Ian Rintoul, spokesperson for the Refugee Action Coalition.

Nor should the foot-in-the-door 'journalism' that has been inflicted on Abyan and her friend on Nauru, be tolerated. "It is impossible to describe the distress, and even terror, inflicted on Abyan and her friend when they were photographed on Nauru.

"This new round of distress has only been possible because, against all expert professional advice, the Australian government returned Abyan to the place of her sexual assault; something that can only add to the anguish that surrounds her situation," said Rintoul. (See attached statement by Professor Louise Newman Professor of Women's Mental Health, University of Melbourne.)

"It is clear from everything that Abyan has said, and now from media reports from Nauru, that she has never declined having a termination. She continues to be a victim of the Australian government's political agenda.

"It is imperative that the Australian government acts urgently to provide the medical care that she needs. Her mental and physical well-being remains at risk as long as she remains on Nauru.

"She should be brought to Australia, this time, with the sympathy, care and consideration that she was previously denied."

The Refugee Action Coalition has called a further protest Friday, 23 October, 5pm, Sydney Town Hall.

For more information contact Ian Rintoul 0417 275 713

### **13. Nauru rape case: Police 'stopped off to watch firework show' before ferrying Iranian asylum seeker to station**

ABC-TV - Lateline

By Ginny Stein

First posted Wed 21 Oct 2015, 4:55pm

Updated Wed 21 Oct 2015, 10:57pm

Distressing allegations have been made about the treatment of a sexual assault victim and her family on Nauru, with sources close to the investigation listing serious shortfalls by authorities.

Medical professionals have also told Lateline that 23-year-old Iranian asylum seeker Nazanin's entire family is at breaking point and suicidal.

Lateline's source says Nauruan police do not dispute that Nazanin was sexually assaulted.

In May this year she was given a pass-out from the detention centre to visit a friend.

On her way back to the centre she was grabbed by a single attacker, dragged into bushes and assaulted in a prolonged attack.

Bloodied, bruised and hysterical, Nazanin managed to escape and run down the road, attracting the attention of a passerby who called police.

It was some hours before they responded.

A friend of Nazanin's, a refugee living in the community in Nauru, was with police when she was found.

"She was not wearing any clothing, not even shoes. Just shouting," the friend said.

"She was curled up in a corner holding a stick, in a state of shock and shaking.

"When I got closer I noticed under her eyes were dark blue, bruised. There were bruises on her body."

#### ***Sources say police stopped to watch fireworks display***

Sources close to the investigation said when police found Nazanin, they took her back to the police station, but not before stopping off for half an hour to watch a fireworks display.

Under the Border Force Act, anyone who has worked in an immigration processing centre can risk jail if they disclose "protected information", therefore Lateline cannot identify these sources.

At the police station, a junior female police officer tried to question Nazanin, who was becoming increasingly distraught.

Sources said a detention centre employee stepped in to try to stop the interrogation and push for her to be taken to hospital.

Despite this, attempts to question Nazanin continued for a further three or four hours.

Meanwhile, Nazanin's family back inside the detention centre had no idea where she was and why she had not returned from visiting her friend hours earlier.

Her brother Omid told Lateline that around midnight he and his mother were told Nazanin had been assaulted.

## ***Family told Nazanin should be moved to Brisbane***

In the wake of the attack, Nazanin's health deteriorated.

She had been kept separate from her family for some time and she was not eating.

When her kidneys shut down, the family was told Nazanin should be moved to Brisbane.

Omid said they were told there was only room on the plane for his sister, but they were under the impression they would be able to join her later.

"The doctor and another team leader, both of them had a meeting with us and they told us on Sunday we will join my sister," he said.

"It was really hard, but I persuaded my mother, just lay here for two days and we will join her. So we just allowed them to send Nazanin.

"Unfortunately later we understood it was completely a trick to just taking Nazanin and her alone."

Two medical staff on Nauru have resigned over the treatment of Nazanin and her family.

Lateline has tried to contact them without success.

## ***Family begging to be reunited***

Nazanin's mother is distraught over the family's treatment and is begging the Federal Government to reunite them.

"As a mother, I cannot tolerate the suffering of my child. I don't want to live," she said.

She and Omid are able to occasionally call Nazanin, who remains in care in a Brisbane hospital, but Omid said each time was traumatic.

"She is a young girl being alone in hospital, she is scared and just always crying whenever we have a phone call," he said.

"My mother, my sister, they are dying gradually, they are dying and we are really alone here.

"All the doctors and trauma specialists and the psychologists, all of them are saying that the most important part of my sister's medical recovery is she needs her mother, she needs her family to be beside her."

Psychiatrist Helen Driscoll is one of Australia's leading trauma experts and has been in contact with Omid.

He gave her permission to speak about him.

"The first time I talked to him he was distressed and talking about his sister and whether there could be any assistance and he was struggling with despair," she said.

Since then, both Omid and his mother have attempted suicide.

Dr Driscoll said the family desperately needed to be together. "One of the profound treatment needs when somebody is traumatised is to reverse that what occurred during the trauma, that is, there needs to be safety, there needs to not be isolation, there needs to be connectiveness, warmth and dignity," she said.

She fears the family is at breaking point. "The demise of these three members of the family is not only occurring, but it's actually quite critical and they may all die," she said.

Immigration Minister Peter Dutton said as recently as this month that it was Government policy to allow family members to travel with asylum seekers receiving medical care off the island.

The Department of Immigration and Border Protection provided a statement to Lateline on Nazanin's case.

"The individual concerned has been receiving appropriate medical and mental health support and care," it said.

"The Department takes allegations of sexual assault and criminal conduct very seriously and immediately refers them to the appropriate authorities for investigation."

"The Department reviews all requests for family reunification on a case by case basis."

<http://www.abc.net.au/news/2015-10-21/alleged-shortfalls-in-treatment-of-nauru-rape-victim/6872582>

## 14. Scott Morrison voiced opposition to late-term abortion in 2014 asylum case

Exclusive: Former immigration minister, now treasurer, expressed 'pretty strong views' against advice of staff when woman was considering termination

The Guardian  
Paul Farrell and Ben Doherty  
Tuesday 20 October 2015 11.57 AEDT

Scott Morrison intervened when he was immigration minister to express his concerns about a late-term abortion that an asylum seeker was considering undergoing, Guardian Australia can reveal.

Morrison, now treasurer, made the move in the case of a woman who was 19 weeks pregnant in 2014.

The woman had been brought from Nauru to Brisbane two months earlier and had been found not fit to fly. The immigration department raised concerns she was delaying making a decision to avoid returning to Nauru, and believed she had never intended to have the procedure. As the pregnancy grew later without the woman making a decision, the minister then raised concerns about late-term procedures.

In a high-level brief by senior immigration staff, the department advised Morrison to leave the case to medical staff at the detention health provider International Health and Medical Services (IHMS).

But Morrison declined to take the advice and expressed some "pretty strong views about late-term procedures" which "restricted our options a lot", according to a high-level official at the immigration department.

The claims are backed by sources involved in the decision making surrounding the woman's case.

The revelations come amid growing concern about the department's handling of the separate case of a Somali woman who was chartered back to Nauru after requesting a termination. The current immigration minister, Peter Dutton, said the woman had declined to have the procedure but the woman has denied saying she did not want it.

After Morrison's intervention in the 2014 case, senior immigration officials asked IHMS to revise their clinical assessment of her fitness to fly.

A mental health assessment of the woman by a treating psychiatrist said there were "concerns that her mental state will seriously deteriorate when she is returned to Nauru".

The assessment continued: "Conditions are not ideal. With the added stress of an advancing pregnancy she ... may be at risk of acting on her suicidal thoughts."

An immigration official then asked IHMS to re-examine the woman's mental health assessment.

The same official said there had been a growing number of assessments that were recommending asylum seekers not be taken to Christmas Island or the regional processing centres and recommended they be placed in "less restrictive forms of detention". The official warned IHMS this was growing more common in clinical assessments and was inconsistent with the government's policy.

The asylum seeker deliberated for some time on whether or not to see her pregnancy through and had been in Brisbane for two months. The view within the immigration department was that she was delaying making a decision to prevent being returned to Nauru.

The immigration department and Morrison's office were approached for comment on Monday afternoon, but have not responded.

A growing number of asylum seekers have been returned to the mainland over the past 18 months from Nauru and Manus Island owing to serious medical and psychological concerns. Some have sought and gained injunctions to prevent their removal back to offshore detention centres and a number have joined a major class action negligence action led by Maurice Blackburn lawyers.

Previously, the government had a policy of "routine transfers" to Australia of pregnant women at 28 weeks so they could give birth in Australian hospitals.

But in July, further documents from IHMS obtained by Guardian Australia revealed a change in policy that would send asylum seekers and refugees requiring advanced medical care to the Pacific International hospital in the Papua New Guinean capital, Port Moresby, and not to Australia.

Australia's immigration detention system is unusual because the secretary of the department retains extraordinary powers to permit or refuse medical treatment, including those surrounding abortion procedures.

Although it is not common, the secretary could also be directed by the minister to take action in a particular case, which could include the exercise of the medical regulations.

<http://www.theguardian.com/australia-news/2015/oct/20/scott-morrison-voiced-opposition-to-late-term-abortion-in-2014-asylum-case>

## **15. 'Extraordinary' that Somali refugee flown to Australia for abortion was expected to reach quick decision: Gillian Triggs**

ABC-TV - Lateline

By Brigid Andersen

Posted Mon 19 Oct 2015, 8:44pm

The circumstances surrounding the case of a woman who alleges she was raped on Nauru are "extraordinary", Human Rights Commission president Gillian Triggs has said.

The 23-year-old Somali woman, known as Abyan, was flown to Sydney for an abortion last week but Immigration Minister Peter Dutton said she was transferred back to the Pacific island on Friday after telling medical staff she no longer wanted to go ahead with the procedure.

Professor Triggs told Lateline it was a "curious case".

"A young woman, 23 years old, obviously very distressed from the facts to the extent that one can glean them, a woman who really needs counselling and a safe environment," she said.

"It's extraordinary that she was expected to reach a decision in such a short space of time and when the answer wasn't given immediately she's literally air lifted back to Nauru."

Professor Triggs said the version of events given by Mr Dutton, Abyan's lawyers and in a statement said to be from Abyan herself "simply don't add up".

"It makes a much broader point that the lack of transparency, the secrecy with which we conduct these detention centres and what goes on in them and of course in our own detention centres in Australia, that is really a core problem and why we really need some form of independent monitoring," she said.

In the statement released by Abyan's lawyers, Abyan said she did not receive counselling or see a doctor.

"I never saw a doctor. I saw a nurse at a clinic but there was no counselling. I [also] saw a nurse at Villawood but there was no interpreter. I asked but was not allowed to talk with my lawyer," it read.

However, in Senate estimates, Mr Dutton gave a breakdown of dates and meetings regarding Abyan.

Professor Triggs said an independent monitoring system was needed for Nauru to give all parties a fair opportunity to get the facts straight.

She said Australia had a "very fine legacy" on human rights, but the treatment of asylum seekers in offshore processing centres would be a deciding factor as to whether or not Australia wins its bid for a seat on the United Nations Human Rights Council.

Professor Triggs said it would be a "tough battle" against France and Spain for the seat.

However she was optimistic that there may be a "humanising" of asylum seeker policies under Malcolm Turnbull's leadership.

"We have a new Prime Minister, we have a differently constituted Cabinet, we have a Foreign Minister who clearly understands the human rights concerns," she said.

"I think this is an opportunity now to rethink some of these policies."

<http://www.abc.net.au/news/2015-10-19/case-of-somali-woman-allegedly-raped-on-nauru-extraordinary/6865890>

## **16. Greens suggest Nauru expert Philip Moss as advocate for refugee Abyan**

The Greens' Sarah Hanson-Young says Abyan needs help and Moss, who led a review of conditions on Nauru, could be an independent voice for her interests

The Guardian

Ben Doherty  
Wednesday 21 October 2015 18.28 AEDT

The Greens have proposed the government's Nauru investigator Philip Moss as a potential "independent advocate" to assist the Somali refugee known as Abyan.

Abyan, not her real name, is pregnant as the result of an alleged rape on Nauru, and has been asking for a termination since 1 September.

She was flown to Australia last week, but after five days was secretly returned on a private charter flight without having had the operation.

"Abyan needs help and she needs it now," the Greens' immigration spokesperson, Senator Sarah Hanson-Young said on Wednesday.

"Abyan's Kafkaesque nightmare has been allowed to carry on for far too long. The extraordinary situation facing this young woman and the need for immediate action means the government must act now to get her the care she needs."

Hanson-Young suggested Moss, the former integrity commissioner, who was hired by the Abbott government to lead a review of allegations of sexual assault and staff misconduct on Nauru, could act as an independent advocate for Abyan's interests.

Moss has a comprehensive knowledge of Nauru, and this year produced an 86-page report that detailed extensive abuse of those in detention there, including allegations of sexual abuse of women and children, physical assaults on asylum seekers and widespread fear of riots and violence.

Abyan's treatment while in Australia has been the subject of widespread controversy.

The government says she was returned by charter flight because she changed her mind and declined the operation.

But Abyan herself, in a written statement, confirmed she still wanted the termination, and only wanted more time to decide and counselling about the procedure.

In an interview on the island with the Australian newspaper she re-affirmed her desire for a termination.

Refugee advocates, Abyan's lawyers, and politicians from all sides have said Abyan's distress over her situation is being compounded by the uncertainty over what will happen next. She is understood to be about 14 weeks pregnant.

"Abyan needs help and she needs it now," the Greens' immigration spokesperson, Senator Sarah Hanson-Young said Wednesday.

"Abyan's Kafkaesque nightmare has been allowed to carry on for far too long. The extraordinary situation facing this young woman and the need for immediate action means the government must act now to get her the care she needs."

Gillian Triggs, the Australian Human Rights Commissioner, told ABC TV earlier this week an independent oversight mechanism was needed for detention centres, to protect the rights of asylum seekers and refugees and to avoid similar controversies to this week's, where contested versions of events are furiously debated in public.

"We clearly need some form of independent monitoring system so that we can have objective, fair processes to understand exactly what's going on here and to give all parties a fair opportunity to get the facts straight," Triggs said.

However, immigration minister Peter Dutton said no additional oversight was necessary.

"The opportunity is there for people to travel," he told reporters. "We have a number of visits, including from Red Cross, UNHCR and others to the detention centres and that regime, that level of oversight, the way in which the oversight regime operates at the moment, the way in which we are providing support with taxpayers' money to people who do need medical assistance, that is the system that will be continuing into the future."

Abyan, who is now 23, fled Somalia after her family was killed by a rocket attack in 2007 during the war between the Somali government and the Islamist terror group al-Shabaab.

She arrived in Australia, landing by boat on Christmas Island, in October 2013. She was transferred to Nauru two days later.

In November 2014, Nauruan authorities determined she was a refugee: that is, she has a well-founded fear of persecution in her home country and cannot be returned there. She had been living in the community on Nauru.

She was allegedly raped in mid-July.

Abyan has said previously she did not want to file a police report over her assault because she feared retribution from her assailant or others.

She was visited by three Nauruan police officers.

“Police visited a Somali woman in response to public claims and offered to take a statement. She declined,” Nauru police said in a statement.

“Without a complaint, co-operation or evidence, police cannot act. Case registered and closed unless a complaint or evidence is received.”

Police also insisted that their arrival and the arrival of the Australian’s columnist Chris Kenny was coincidental.

“Nauru police wish to clarify – no media accompanied police yesterday as they visited women to offer assistance. Media arrived independently,” the police force said in a statement.

Kenny is reportedly the first foreign journalist in 18 months to be granted a media visa to visit Nauru. Other journalists have been refused permission to travel to the island. Human Rights Commissioner Triggs also said this week, “I cannot get a visa”.

Kenny was chief of staff to Australian prime minister Malcolm Turnbull when he was in opposition.

“If my public support for strong border protection measures helped sway Nauru’s decision, so be it,” he said when asked about his visa approval.

<http://www.theguardian.com/australia-news/2015/oct/21/greens-suggest-nauru-expert-phillip-moss-as-advocate-for-refugee-abyan>

## **17. Peter Dutton says further oversight of asylum seekers unnecessary**

The immigration minister rejects call by human rights commissioner, Gillian Triggs, for independent monitoring of asylum seekers in offshore detention

The Guardian  
Shalailah Medhora  
Tuesday 20 October 2015 16.13 AEDT

The immigration minister, Peter Dutton, has rejected calls for independent monitoring of conditions for asylum seekers and refugees in offshore processing facilities, saying the level of support provided now is sufficient.

The president of the Human Rights Commission, Gillian Triggs, told ABC’s Lateline program on Monday night that there needs to be independent oversight of detention centres, as question marks remain over the fate of a young Somali refugee who alleges that she became pregnant after being raped on Nauru.

“We clearly need some form of independent monitoring system so that we can have objective, fair processes to understand exactly what’s going on here and to give all parties a fair opportunity to get the facts straight,” Triggs said.

Dutton rejected the calls. “The opportunity is there for people to travel,” he told reporters. “We have a number of visits, including from Red Cross, UNHCR and others to the detention centres and that regime, that level of oversight.

“The way in which the oversight regime operates at the moment, the way in which we are providing support with taxpayers’ money to people who do need medical assistance, that is the system that will be continuing into the future.”

In Senate hearings on Tuesday, Triggs said that the commission would be happy to take on the job of independent monitor, but that the refusal of the Nauruan government to allow commissioners into the country would pose significant jurisdictional problems.

“I can’t go there, can’t get a visa,” she said.

The jurisdictional question of whether an independent Australian body can offer oversight of a facility in another sovereign country created an impediment to the Human Rights Commission playing a stronger role in offshore detention, Triggs said.

Entry to the facilities on Nauru and Manus Island “does not depend on decisions of the Australian government but on two sovereign governments,” the attorney general, George Brandis, told estimates.

Also during estimates, Triggs revealed that the Human Rights Commission is in talks with the secretary of the Department of Immigration and Border Protection, Michael Pezzullo, on including human rights modules in training for detention centre staff.

The training would take in practical applications such as the use of force.

“Do you handcuff people when you are taking them to Nauru? Do you handcuff children and people in wheelchairs,” Triggs said, offering examples of what could be covered in the training.

“We have a lot to offer in terms of training, and the secretary was very open to that,” she said, adding that discussions were moving quite quickly and that Pezzullo was keen to get started soon with an enhanced training program.

Giving border force staff and immigration department officials enhanced training would give the federal government a stronger role in managing detention centres, Triggs said, as staff members could be put on the frontline alongside private management companies that currently manage the centres.

Dutton praised border force staff, who he said performed professionally and to a high standard.

<http://www.theguardian.com/australia-news/2015/oct/20/peter-dutton-says-further-oversight-of-asylum-seekers-unnecessary>

## **18. Chris Kenny the first foreign news reporter in 18 months to be granted Nauru visa**

‘If my public support for strong border protection measures helped sway Nauru’s decision, so be it’, says the Australian’s associate editor after interviewing Abyan

The Guardian  
Amanda Meade  
Tuesday 20 October 2015 14.55 AEDT

The Australian’s associate editor Chris Kenny is the first foreign news reporter in 18 months to be granted a visa by the Nauruan government to visit the island.

Kenny filed a story from Nauru for Tuesday’s Australian about his interview with the Somali refugee known as Abyan, who is pregnant as the result of an alleged rape on Nauru.

Since January 2014 foreign journalists have been required to pay an \$8,000 application fee for a visa to visit Nauru, an increase of almost 2,000% on the previous fee.

The \$8,000 is nonrefundable if the government refuses a visa. It has been a significant deterrent to journalists entering the country.

Asked by Guardian Australia how he obtained a visa to report from Nauru, Kenny said: “If my public support for strong border protection measures helped sway Nauru’s decision, so be it.

“My support for such policies accords with the majority of Australians but like the overwhelming majority of Australians, I would object to anyone being mistreated in our name.”

Abyan was flown to Australia last week for an abortion but was flown back without undergoing the procedure. She has denied saying she did not want a termination, and said she “never saw a doctor” before she was secretly flown out of Australia.

Kenny is the first journalist to interview the woman and he reported that she told him she does still want an abortion, but not in Australia. “Yes, I still want an abortion. But I don’t want Australia, I want to go to another country,” she was quoted as saying.

A spokesman for News Corp Australia would not comment on whether the Australian had paid the \$8,000 visa fee.

“Given concerns about the welfare of asylum seekers and conditions on Nauru I have been trying for six months to gain access,” Kenny said.

“I am very pleased the Nauruan government agreed to my request and I expect full access to people and facilities on the island.”

Kenny said Abyan was reluctant to speak to him at first but then agreed to an interview in which she confirmed claims by her lawyers that she did not change her mind about having an abortion.

“I was physically and mentally sick,” she said, “and I wanted to make sure I could make my health good first. I did not say ‘no’.”

“Five hours after the Australian’s interview, Nauruan authorities reported that Abyan complained about being visited by the media and had sought medical attention at the local hospital,” Kenny wrote.

<http://www.theguardian.com/world/2015/oct/20/chris-kenny-first-foreign-news-reporter-in-18-months-granted-nauru-visa>

# 19. Disturbing allegations have been made about the treatment of a sexual assault victim and her family on Nauru

Australian Broadcasting Corporation  
LATELINE  
Broadcast: 21/10/2015  
Reporter: Ginny Stein

Medical professionals have told Lateline that sources close to the investigation listing serious shortfalls by authorities and they've also said 23-year-old Iranian asylum seeker Nazanin's entire family is at breaking point and suicidal.

## **Transcript:**

TONY JONES, PRESENTER: On 19th May this year, a 23 year-old woman called Nazanin, an Iranian asylum seeker, was given a day pass out of the Nauru detention centre. That afternoon, on her way back to the centre, Nazanin was pulled into the bushes and raped. She was found a few hours later running down a road, half-naked, bruised and bitten.

We understand she was so shaken by the assault, she spent the following three months in isolation, refusing food and drink. She also attempted suicide.

Well eventually, the decision was made to fly her out to a Brisbane hospital without her family. Two months later, she's still there.

Nazanin's mother and brother are still on Nauru, desperate to be reunited with her.

Well tonight we'll hear from both of them in secretly recorded videos and sources close to the investigation have revealed disturbing new details about how Nazanin was dealt with by the local police.

According to our sources, there have been at least 20 sexual assaults on asylum seekers in the past year.

The Australian Government relies on Nauruan police to investigate such matters, but Nazanin's story raises serious questions about their capacity to deal with serious sexual assaults and the victims who come to them.

Ginny Stein reports.

GINNY STEIN, REPORTER: This is Omid. He is 20 years old. In May this year, his sister was raped.

OMID, ASYLUM SEEKER: My sister went out for dance practising to her friend's accommodation, but on the way to come back, bad, shocking things happened to.

GINNY STEIN: Neither police or Immigration Department authorities dispute that the sexual assault took place.

These are the facts: 23-year-old Nazanin was given a pass out from the detention centre to visit a friend, but she failed to return. On her way back to the detention centre, she was grabbed by a single attacker and dragged into the bushes. It was a prolonged attack. Bloodied and bruised and hysterical, she finally managed to escape and ran down the road. A passerby saw her and called police. It was some hours before they responded. A friend, a refugee living in the community in Nauru, was with police when she was found.

FRIEND (subtitle translation): She was not wearing any clothing, not even shoes. She was curled up in the corner holding a stick. She was in a state of shock and shaking. When we got closer I noticed under her eyes were dark blue bruises. There were bruises on her body.

GINNY STEIN: Now sources close to the investigation have spoken to Lateline, describing in detail how authorities responded to the attack and the treatment of her family listing serious shortfalls.

Due to the Australian Government's threat to jail any employee who speaks out on the island, we can't identify those we have spoken to. We were sent written statements to back what we were told.

WRITTEN STATEMENT (Actor's voice): "Well, she arrived distraught after she'd been made to sit in the back of a police wagon half-naked. This is while the Nauru police sat and watched fireworks for 45 minutes. When she got there, she was taken to a room and then she was basically just dressed in her bra and underwear. The Nauru police didn't even offer her a blanket or clothing or anything to cover her up."

GINNY STEIN: At the police station, a junior female officer tried to force Nazanin to speak.

WRITTEN STATEMENT (Actor's voice): "Nazanin was obviously extremely upset and refused to answer any questions, which is a normal response in a sexual assault. The officer then became frustrated so the questioning became more and

more vigorous. The client services officer became so concerned over the method of questioning as well as Nazanin's emotional state that she had to intervene and then she requested that Nazanin be taken to the hospital. She and Nazanin were then advised that until a statement was taken at the police station, she was not to be taken to the hospital."

GINNY STEIN: Questioning continued for a further three or four hours.

WRITTEN STATEMENT (Actor's voice): "When they were at the police station, the male police officers were coming in and out of the office. Can you imagine how a half-naked female subjected to a prolonged sexual assault is expected to deal with that?"

GINNY STEIN: Meanwhile, her family had no idea where she was.

Our sources told us that the Nauru police lack the basic skills to investigate sexual assault. Earlier this year, the Australian Federal Police sent a two-person team to provide rudimentary training.

Psychiatrist Helen Driscoll is one of Australia's leading trauma experts. She's been in contact with Omid over the phone since his sister was flown off the island. He's given her permission to speak about him.

HELEN DRISCOLL, TRAUMA & SEXUAL ASSAULT PSYCHIATRIST: The first time I talked to him, he was distressed and talking about his sister and whether there could be any assistance and he was struggling with despair.

GINNY STEIN: When Omid last called Dr Driscoll, he and his mother had just been released from 24-hour watch. They had both tried to kill themselves, his mother by hanging, her son by eating stones. She knew something was wrong, but he kept from her that he had tried to kill himself.

HELEN DRISCOLL: So I was the first one, I understand, to speak to him following that suicide attempt, at which time he was - sounded very weak, he said he was hurt, he said he was in isolation. I thought he was saying he was hiding, he was separated from his mother and he seemed frightened and it was difficult for me to get anything further from him and it was like he was frightened to talk.

GINNY STEIN: Nazanin was kept separated from her family for much of the time before she was flown out.

WRITTEN STATEMENT (Actor's voice): "She should've been flown immediately to Australia. There are no facilities on Nauru for dealing with the emotional and physical requirements of sexual assault victims, but she remained in limbo, slowly deteriorating."

GINNY STEIN: But when Nazanin's kidneys shut down, pressure was placed on the family to move her immediately to Brisbane. Her family was told there was only room on the plane for one.

Omid and his mother feel tricked. They were told they would follow.

OMID: All the doctors and trauma specialists and psychologists, all of them saying that the most important part of my sister's medical recovery is she needs her mother, she needs her family to be beside her.

MOTHER (subtitle translation): She used to laugh, she was happy always. I am asking for help from the Australian people and the Government. Please help me and my children, for my daughter to be happy and laugh again.

WRITTEN STATEMENT (Actor's voice): "Nazanin was extremely well-liked by refugees, client services officers, Transfield staff and the Immigration staff. I never heard anyone say anything negative about her while on Nauru. She was quiet and considerate."

GINNY STEIN: Two medical staff have subsequently resigned over the treatment of Nazanin and her family. Lateline has tried to contact them without success.

HELEN DRISCOLL: One of the profound treatment needs when somebody is traumatised is to reverse what occurred during the trauma. That is, there needs to be safety, there needs to be not isolation, there needs to be connectedness, warmth and - and dignity. And so it's utterly imperative that the family be together.

GINNY STEIN: Immigration Minister Peter Dutton as recently as this month stated it was Government policy to allow family members to travel with asylum seekers, receiving medical care off the island. But that has not happened. Omid and his mother are able to occasionally call Nazanin, who remains in care in a Brisbane hospital, but each time is traumatic.

MOTHER (subtitle translation): She is alone now, in the worst physical and mental condition, alone in her hospital bed.

OMID: My sister there in hospital, she traumatised. She is alone. She is a young girl and being alone in hospital, she's scared and just always crying whenever we have phone call.

GINNY STEIN: Helen Driscoll says the pressure on 20-year-old Omid and his mother is at breaking point.

HELEN DRISCOLL: Well, for him it's actually life-threatening too because he has - the fact that he cannot affect and bring about any change, any benefit, any shift in this utter powerlessness, this utter life-threatening state for his sister and now his mother, then for him too, it's suicide and I see the demise of these three members of a family is not only occurring, but it's actually quite critical and they may all die.

OMID: Yes, my mother, my sister, they're dying gradually, they're dying and we are really alone here.

TONY JONES: Well we asked the Immigration Minister Peter Dutton for an interview. He's overseas, so unavailable. In a statement provided to Lateline, the Department of Immigration said, "The individual concerned has been receiving appropriate medical and mental health support and care. The Department takes allegations of sexual assault and criminal conduct very seriously and immediately refers them to the appropriate authorities for investigation. The Department reviews all requests for family reunification on a case by case basis."

<http://www.abc.net.au/lateline/content/2015/s4336437.htm>