

# Project SafeCom News and Updates

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# 1. Germany warns of legal action against EU countries ignoring quota

Foreign minister warns Slovakia and Hungary that 'solidarity is not a one way street' and legal channels could be used to ensure refugee quotas are upheld

The Guardian  
Agence France-Presse  
Sunday 20 December 2015 13.03 AEDT

Germany's foreign minister Frank-Walter Steinmeier has threatened legal action against EU countries that refused to accept refugees under the bloc's quota programme.

Steinmeier said in an interview with German weekly Der Spiegel that "if it cannot be done otherwise, things will be resolved through the appropriate legal channels", adding that "Europe is a community of law".

The German minister spoke specifically of Slovakia and Hungary, which have both made their own threats of legal action against the controversial quota system.

Slovakia said last month that it would complain against the EU quota plan to distribute 160,000 refugees and migrants across the bloc.

Few migrants have entered Slovakia on their voyage to western Europe, and even fewer asylum seekers have chosen to stay. Under the EU's quota system, Bratislava is expected to take in just under 2,300 migrants.

"European solidarity is not a one-way street," Steinmeier said, adding that "those who refuse (to welcome refugees) must know what is at stake for them: open borders in Europe".

Europe's Schengen passport-free area is cherished as one of its most important achievements and the European Commission has repeatedly expressed concern that re-imposing border controls threatens its future.

EU leaders on Thursday set an end-of-June deadline to agree on a new border and coastguard force to slow the influx of migrants across the 28-nation bloc's porous external frontiers.

They also called for the rapid delivery of a promised €3bn (\$3.25bn) in aid for refugees in Turkey in return for its help in stemming the flow.

Following a slew of emergency summits this year, they acknowledged they had been too slow to carry out a joint strategy to tackle Europe's worst refugee crisis since the second world war.

<http://www.theguardian.com/world/2015/dec/20/refugee-crisis-germany-warns-of-legal-action-against-eu-countries-ignoring-quota>

# 2. Europe migrant crisis: Denmark seeks revision to UN refugee convention

ABC News Online / AFP  
First posted Mon 28 Dec 2015, 9:30am  
Updated Mon 28 Dec 2015, 10:02am

Denmark's centre right-wing Prime Minister says he will seek a revision of the 1951 United Nations Refugee Convention, as Europe faces its worst asylum seeker crisis since World War II.

"If this continues or gets worse ... we will get to the point where we'll have to talk — and Denmark won't be able to do it alone — about adjusting the rules of the game," Lars Lokke Rasmussen told local television.

The Danish leader, whose Venstre party rules with the backing of the anti-immigration Danish People's Party (DPP) in parliament, said the convention should be revised in order to clarify the rights of refugees in the first country they fled to.

"If someone seeking shelter from war has lived for two or three years in Turkey, should he then go to Europe and seek asylum there?" he said.

"As they stand today, the rules allow people to do that, but we are going to have a discussion about that."

Mr Rasmussen believes the European Union, of which Denmark is a member, should lead an effort to modify the convention that came into law just six years after World War II ended.

## ***Plan to seize asylum-seekers' assets***

The Danish Government's policies have triggered global controversy, most recently with a plan to seize valuables and cash from asylum seekers.

The plan, which parliament will vote on in January, sparked comparisons to Nazi Germany's seizing of gold and valuables from Jews and others during World War II.

From January to November, 18,000 people requested refugee status in tiny Denmark, which is home to some 6 million people.

Meanwhile, neighbouring Sweden expects the number of requests for 2015 to climb to nearly 190,000.

According to the UN, Turkey is hosting more than 2 million Syrian refugees.

<http://www.abc.net.au/news/2015-12-28/denmark-seeks-revision-to-un-refugee-convention/7056626>

## **3. Father of drowned Syrian toddler Aylan Kurdi asks world to open doors to refugees in Christmas address**

ABC News Online / Reuters

First posted Wed 23 Dec 2015, 2:17pm

Updated Wed 23 Dec 2015, 9:41pm

The father of three-year old Aylan Kurdi, whose lifeless body washed up on a Turkish beach and became a symbol of the global refugee crisis, has asked the world to open its doors to Syrians fleeing conflict.

The toddler died after his family, sheltering in Turkey from the war in Syria, decided to make a desperate bid to reach Greece from Turkey in a flimsy inflatable boat.

Warning: This story contains a graphic image that some readers may find distressing.

Shocking images of Aylan face down on the shore helped spur European nations to seek an effective response to the growing migrant crisis.

"My message is I'd like the whole world to open its doors to Syrians," father Abdullah Kurdi said in a video message to be broadcast on Christmas Day, according to a transcript released by Britain's Channel 4.

"If a person shuts a door in someone's face, this is very difficult.

"When a door is opened they no longer feel humiliated.

"At this time of year I would like to ask you all to think about the pain of fathers, mothers and children who are seeking peace and security. We ask just for a little bit of sympathy from you."

Aylan's mother Rihana and brother Ghaleb, 4, died in the same accident and were buried in the Syrian town of Kobane in September, days after the tragedy.

Abdullah Kurdi had been trying to escape along with his family and up to three other Syrians from the flashpoint town, which was last year the site of a months-long battle between Kurdish militias and jihadists.

His plea came after five children, one woman and four men drowned on Tuesday when their boat sank off the small Greek island of Farmakonisi, Greek coastguard officials said.

Another 13 people, 11 men and two women, were rescued and two were still missing according to witnesses, the officials said, adding that a search-and-rescue operation was underway.

More than one million refugees and migrants came to the European Union in 2015, including over 970,000 who made the dangerous journey across the Mediterranean, the UN refugee agency said on Tuesday.

About half were Syrians fleeing the country's brutal civil war, according to the new figures.

Almost 3,700 died or went missing during the journey, the International Organisation for Migration said.

<http://www.abc.net.au/news/2015-12-23/father-of-drowned-toddler-asks-world-to-open-doors-to-syrians/7050846>

## 4. Cabinet papers 1990-91: Labor wrestled with rising asylum claims

Cabinet papers show Gerry Hand, immigration minister under Hawke and Keating, foreshadowed policies and rhetoric of the Howard and Abbott years

The Guardian  
Gabrielle Chan  
Friday 1 January 2016 00.01 AEDT

“We will decide who comes to this country and the circumstances in which they come.”

It was one of John Howard’s more controversial statements, delivered in the 2001 election, two months after the Tampa controversy.

But the 1990-91 cabinet documents, released by the National Archives of Australia, show the Labor government was scrambling a decade earlier to tighten immigration and asylum seeker rules to deal with burgeoning numbers.

Paradoxically, at the same time, Bob Hawke’s government was struggling to implement his tearful promise to allow Chinese students to stay in Australia after the 1989 Tiananmen Square massacre.

When immigration minister Gerry Hand announced the policy to crack down on refugee applications, he foreshadowed Howard’s message, telling parliament the changes would ensure “the first and long-held migration principle, that the Australian government will determine who will be permitted to enter Australia for permanent stay”.

The nub of the issue facing Labor in 1990 and governments since that time is contained in Hand’s cabinet paper.

“Steeply increasing numbers of applicants in Australia seeking refugee status and residence on refugee or humanitarian grounds, coupled with recent decisions by the courts that eased considerably the test for asylum in Australia, put at risk the government’s control over the profile and size of the migration intake,” Hand wrote.

Every cabinet paper asked its minister for an assessment of “sensitivity/criticism” and Hand previewed the criticism which has continued to this day.

“Proposed separation of grant of protection from immigration status, changes to migration act and tightening of visa issue will draw adverse reaction from ethnic and humanitarian groups and possibly the United Nations High Commissioner for Refugees. Tightening of visa issue may also create some tension in bilateral relations,” he wrote.

He reported to cabinet that the number of refugee applicants had grown steadily from 214 in 1980 to 469 in 1985 and 564 in 1988-89. The following year, 1989-90, refugee applicants leapt to 3,077 and in February 1990 alone the number was 577.

Hawke’s promise led to an increase in the numbers of Chinese students applying for refugee status, even if they had not been in Australia at the time of his statement.

It is not clear from the submission whether Hand’s numbers were the total number of onshore and offshore refugee applicants, but in 2013-14 there were 18,718 onshore applicants in Australia. In the same year in Europe, total claims were 484,600.

If Australia allowed entry to more refugees, Hand said, it would send “beacon signals” to source countries. His claim found an echo in 2014 in Tony Abbott and Scott Morrison’s warning that Australia needed to “take the sugar off the table”.

“In this situation we face significantly increasing numbers of entrants to the migration stream from the refugee/humanitarian category, placing pressures on our off-shore humanitarian programs, sending ‘beacon’ signals to overseas source areas and potentially disrupting the efficiency of controls over our migration program,” Hand wrote.

He lamented the courts were also increasingly taking a “positive stance on asylum” and “community compassion” was trending the same way.

“Australia is reaching a point where most on-shore refugee applicants from a country perceived as politically unstable or possessing a limited commitment to human rights (‘at risk countries’) have a strong chance of securing residence (or extension of stay) either as refugees or on humanitarian grounds,” he wrote.

As a result, he said, it was taking up to six years to process refugee applicants, which also made it more difficult for overseas applicants who had “waited patiently in line to be assessed” and had far more “urgent and compelling” cases than most applicants in Australia. It was another version of the queue-jumping concept cited from Gough Whitlam onwards.

Hand was canvassing a range of options, one of which included taking the matter of refugee approval out of the hands of the courts and giving it to parliament. He noted several senior commonwealth law officers had persuaded him that an answer could be found without taking such a “controversial step”.

In June 1990, the cabinet decided that applicants found not to be refugees would be deported. It also broke the nexus between refugee status and residential status – meaning applicants could be assessed as a refugee without automatically receiving residential status.

In 1991, just after Keating became prime minister, the cabinet approved a refugee income support payment, which became necessary because the application processing times had increased markedly.

Hand won support to reduce the overall migration intake from 140,000 in 1989-90 to 126,000 in 1990-91 and 111,000 in 1991-92, with more focus on a skilled intake. The government also backed financial assistance to draw 6,000 skilled migrants from eastern Europe after the collapse of the Soviet Union.

In 1991, refugee processing centres were established at Villawood and Port Hedland. The following year, the Keating government legislated for mandatory detention as a temporary measure for “a specific class of person”.

[Cabinet records for 1990 and 1991 held by the National Archives of Australia became eligible for access from 1 January 2016. Information about the cabinet records, lists of the documents and copies of key cabinet documents, including selected submissions and decisions, are available on the archives' website: <http://www.naa.gov.au/> ]

<http://www.theguardian.com/australia-news/2016/jan/01/cabinet-papers-1990-91-labor-wrestled-with-rising-asylum-claims>

## **5. Laws to repress information about detention could be unconstitutional**

Canberra Times  
January 1, 2016  
Crispin Hull

An assertion of judicial power to protect rights in Australia would not go amiss after a decade of onslaught by the legislature and executive against ordinary liberal-democratic principles.

An analysis by constitutional lawyer George Williams tallies 350 Australian laws that now infringe those basic democratic standards. The laws cover not just anti-terror and defence, but also general crime, discrimination, consumer law, migration, industrial relations, intellectual property, evidence, shipping, environment, education and health.

One of these laws is the Border Force Act which has wide secrecy provisions that prevent "entrusted persons" – virtually anyone who has anything to do with immigration detention – revealing any of a broad spectrum of "protected information" on pain of two years' imprisonment.

As a result, lawyers in a class action of asylum seekers are finding gathering evidence very difficult.

The Border Force Act has little or nothing to do with national security. It is there to conceal the government's morally repugnant policy on imprisonment of refugees.

It was waved through the Parliament last February by a spineless Opposition too scared of being painted soft on national security.

Hitherto, much concern has been expressed about the executive having too much power over the individual. Now, we should be concerned that the legislative branch is abusing its powers. The only hope against abuse by the legislative and executive arms is the judicial arm.

One case might bring this to a head. A class action in the Victorian Supreme Court claiming lack of medical care on Christmas Island seeks damages from the Commonwealth and the contractors who are paid to imprison the asylum seekers and look after their health.

But with the spectre of the Border Force Act, some potential witnesses fear coming forward. Other potential witnesses are using the act as an excuse for not giving interviews to lawyers.

Fortunately, Justice Jack Forrest has worked a way through this. He has applied an exemption in the act in cases where a court or tribunal "requires" a witness to answer. Essentially, Justice Forrest will accept sworn evidence by a lawyer that the material is essential to the case to then "require" the person be subjected to an interview by the lawyers.

But it is an awkward process.

It is just one example of the 350 laws identified by Williams that trample on ordinary legal processes and rights that have hitherto been regarded as basic and obvious.

Maybe we need another legal-constitutional approach here – along the lines of the constitutional defence for political communication.

Recall that before 1994, state defamation laws made a mockery of any idea that there was free speech in Australia. Politicians sued media outlets for the slightest slight, often obtaining richly undeserved damages and chilling media investigation into political malfeasance.

Then the High Court held that the constitution envisaged a system of representative democracy which, to work properly, required freedom of political communication so that the voters could be properly informed before voting.

It meant that media organisations were protected if they behaved reasonably, even if they ultimately could not prove the truth of their allegations.

Now let us take the Williams expose of a raft of laws that offend basic democratic rights. Surely, the system of government envisaged by the constitution should restrict any legislative attempt to take away those rights.

Williams has argued for a Bill of Rights to ensure they are not taken away. I agree. But the referendum process to create a Bill of Rights is a long and difficult one. So, what follows is another approach.

Just as the constitution provides for representative democracy and therefore does not permit undue restriction on political communication, it also provides for a system of government in which the powers are separated into the legislative, executive and judicial.

The legislative power is vested in the Parliament (Section 1). The judicial power is vested in the High Court, and if Parliament provides (as it has) other federal courts and State Supreme Courts (Section 71).

But the constitution is silent as to precisely what is meant by "legislative power" and "judicial power". However, there have been a few cases about how the legislative power cannot impinge on the judicial power.

Justice Toohey in the majority in *Kable v NSW* said that the constitution "vests the judicial power of the Commonwealth exclusively in the courts which it identifies and in clear terms recognises the separation of the judicial power of the Commonwealth from legislative and executive powers. It is a consequence of that division that the Parliament of the Commonwealth may not interfere with the judicial process itself."

So when the legislature purports to silence people in such a broad way that it impinges on due process, it is in fact unconstitutionally exercising judicial power, or at least unconstitutionally interfering with the judicial process itself.

We might find that a lot of the 50 laws that Williams has found to offend liberal-democratic principles also offend constitutional principle – precisely because our constitution is the founding bedrock of our liberal democracy.

Many black-letter lawyers will be quick to pooh-pooh this as idealistic twaddle – just as they did before the constitutional free-speech cases. And they will be equally quick to condemn any new jurisprudence along these lines as undemocratic judicial activism. But our democracy would be the better if the judges got active in that way.

<http://www.canberratimes.com.au/comment/laws-to-repress-information-about-detention-could-be-unconstitutional-20151230-glwpux.html>

## **6. Peter Mares: Another cruel twist in Australia's refugee policy**

Australia has passed up the option of settling offshore refugees in New Zealand, writes Peter Mares

Inside Story  
24 December 2015  
Peter Mares

Australia has left 300 refugees in limbo in Nauru and Papua New Guinea rather than allowing them to build new lives in New Zealand under a standing resettlement offer from the Key government. Yet immigration minister Peter Dutton continues to pursue resettlement options in poor countries like Cambodia, a policy that is far more expensive than the trans-Tasman offer. Just five people have been resettled in Cambodia under a deal that has cost Australian taxpayers \$55 million.

New Zealand's agreement to take up to 150 refugees each year from Australia's offshore centres dates back to when Julia Gillard was prime minister. Announcing the deal in February 2013 after a meeting with her New Zealand counterpart, John Key, she said that the program would "start in 2014 and be ongoing." The places were factored into a three-year rolling plan for refugee resettlement signed off by the NZ cabinet in June 2013.

Under the plan, New Zealand Immigration set aside 150 of the 750 resettlement places in its annual refugee quota for refugees "subject to offshore processing from Australia." Places were reserved in both 2014–15 and 2015–16, but so far none has been taken up, and the NZ government doesn't expect they ever will be.

A senior official has confirmed that the offer to resettle refugees from Australia's offshore processing system remains on the table, but the view in Wellington is that Australia thinks resettling refugees in New Zealand would undercut one of the

fundamentals of its current policy – that asylum seekers sent to Nauru and Manus will never come to Australia. Refugees resettled in New Zealand would be eligible to become New Zealand citizens after five years' residence. Under the Trans-Tasman Travel Arrangement they would then be free to enter Australia, and to live and work here indefinitely.

Full story at <http://insidestory.org.au/another-cruel-twist-in-australias-refugee-policy>

## 7. Editorial: It is time for Australia to set the refugees free

The Age  
Editorial  
December 28, 2015 - 9:34AM

Not since the Second World War has there been displacement of people on the scale that occurred in 2015; nor it seems, since that dark nadir of the 20th century, has there been such ugly division over how millions of people fleeing war and persecution might be helped.

They sailed in tiny rubber boats or wooden fishing vessels. They tramped through fields and along railway tracks, with children slung over their shoulders and old people leaning on canes. Some nations built wire fences and walls to keep them out. Some deployed armed forces, water cannon and dogs to deter them at border crossings.

Terrorism and civil wars have destabilised the governments of their nations, and always the wickedness of persecution rolls on. But instead of demonstrating compassion and care for the disadvantaged and dispossessed, political opportunists and fear-mongers have fomented wicked cynicism, racism and malice.

In Australia, our government continues to use the most despicable tactics to deter asylum seekers. For the past two years, this nation has turned back boats at sea, directing them to other countries. It has detained asylum seekers on naval vessels and handed them back to nations that persecute them for fleeing. Have we shown these people that this is a nation governed by wise and kindly people, or by political grandstanders pursuing their own interests?

The Age believes strongly, and we will say this until the policy ends, that the strategy of turning back boats carrying asylum seekers is ignoble. It demonstrates a paucity of imagination. It has been ruthlessly executed, without proper regard for the asylum claims of those people intercepted. And it has brought this nation into disrepute around the world.

The asylum seekers who arrive here have not broken the law. We will say it again: they are not "illegals". They have used the avenues allowed to anyone under international law – under the United Nations covenants to which Australia subscribes – to seek refuge from all forms of persecution.

It is time to call an amnesty, to end the imprisonment of people who came here seeking help and a better life. It is time to recognise that jailing people in detention facilities for years on end, denying them hope or any alternative, and treating them without compassion, is the most inhumane thing that we could do – short of shipping them back to the situation that they fear in their own countries.

No good can possibly be served by detaining people a day longer in camps in Third World nations. No good is served by denying refugees who are living in Australia the right to work. No good comes from demonising refugees, by ostracising them from the mainstream community.

Good will come by dissolving the oppressive, offshore prisons, by allowing the 827 people who have been detained for more than a year (436 for more than two years) to be let free and to be given a chance to make their way in this country.

The policy of locking up those who did arrive on Australian shores before late 2013, and detaining them on Nauru or Manus Island – where their options, if resettled, are extremely limited – defies common sense. It is costly, and it is a corruption of our vows to pursue humanitarian principles.

We call on the Turnbull government to allow all asylum seekers who are found to be refugees to join our community, on Australian soil. Give them the freedom to be productive members of our democracy, and show the world that we are made stronger by doing so, that we are a compassionate and free people, a resolute and confident nation that properly respects the full range of human rights.

<http://www.theage.com.au/comment/the-age-editorial/it-is-time-for-australia-to-set-the-refugees-free-20151227-glvflx.html>

## 8. Nicholas Reece: Asylum seekers: how to end our nation's shame

Canada's new Liberal government is showing Australia the way.

The Age  
December 28, 2015 - 12:15AM  
Nicholas Reece

Some Liberal MPs have started telling refugee advocates to wait until after the next election and they will see a more humane policy from the Turnbull government. Sorry, not good enough. The horror of war in Syria and the Middle East has left the world facing the biggest humanitarian crisis since the Second World War, with 60 million displaced people seeking a place they can live safely. Australia needs to show more of its generous heart. Not just towards those currently fleeing the Middle East but also the 2000 people already in our immigration detention facilities and the 29,000 languishing in purgatory in Australia on bridging visas.

Malcolm Turnbull needs to make a New Year's resolution that 2016 will be a year of fairness and freedom for people seeking asylum in Australia. Leadership demands more than a vague promise that something might happen sometime in the next term of government.

"Stopping the boats" may have been a political victory for the Coalition but it was never going to be the end of the story. Particularly when there are so many practical and politically achievable things that can be done now to deliver a more humane and sustainable system.

Right-wing populist politicians may be on the march in the United States and Europe, with fearmongers such as Donald Trump enjoying soaring popularity. When Trump says he wants "a total and complete shutdown of Muslims entering the United States", it makes headlines around the world. But far more relevant to Australia is the experience of Canada under new Liberal Prime Minister Justin Trudeau.

Trudeau swept to power last month despite having an unpopular policy to accept 25,000 Syrian refugees by Christmas. An Ipsos poll conducted during the campaign found 60 per cent of Canadians disagreed with the plan. But Trudeau did not walk away from the policy. Instead, he publicly embraced it, visiting the airport to welcome the first planeload of Syrian refugees. "You are safe at home now," he told the "new Canadians". Provincial premiers and the Governor-General followed suit, welcoming subsequent plane loads.

The Trudeau government launched an advertising campaign to boost public support for its refugee plan; it promotes Canada's compassionate values and reaffirms its global leading role in refugee resettlement. And guess what? There has been a massive shift in public opinion in favour of the refugee plan. A poll by Forum Research this month found that opposition to the refugee intake had fallen 16 points to 44 per cent.

For too long the conventional wisdom in Australia has been that attitudes towards refugees are hardline and immovable. But Australia's doppelganger in the northern hemisphere proves otherwise. More profoundly, Canada shows that politicians don't have to just passively respond to global and domestic events. Good leaders can shape the national conversation and push the boundaries of what policies are politically permissible.

Turnbull may have dropped the mendacious rhetoric of his predecessor, which sought political profit from stoking public fear. But where is the reset in the national conversation that Australia so desperately needs, and has proven so powerful in Canada? The reminder that people seeking asylum are pursuing a fundamental human right, and that all of us have the right to live in peace, care for our children, and live free from danger?

This is not to suggest a repeat of the mistakes of the Rudd government in 2008, when it dismantled Australia's offshore processing policy. But the new Prime Minister needs a plan beyond offshore detention and boat turn-backs.

To begin with, Australia should lift its intake of asylum seekers from Syria. Canada is heading for 50,000 by the end of 2016, while Germany has said it will give temporary protection to 800,000. The Abbott government promised Australia would resettle just 12,000 Syrian refugees, in addition to the existing humanitarian program of 13,750.

Turnbull should announce that Australia will match Canada and commit to resettling 50,000 people from Syria by the end of 2016. Remember, Australia accepted 170,000 refugees at the end of the Second World War, and 94,000 from Vietnam, Laos and Cambodia after the Vietnam War.

The next part of the policy puzzle is what to do about the 2000 asylum seekers on Nauru, Manus and Christmas Island and the 29,000 stuck in legal purgatory in Australia. Inexplicably, the average time in detention has risen to 446 days, and yet nobody accuses these people, including 105 children, of committing any crime. The suicides, the rapes and the abuse of children are just the tip of an iceberg of human suffering caused by our government's decisions in respect of these people.

Let's start with getting all the kids out of detention. This was part of a deal in Federal Parliament more than a year ago, and there is simply no argument that can justify detention of these children by Australian authorities for a single day more.

The next thing to do is to escalate negotiations with safe countries – what about South Korea, Taiwan, Japan or even Canada – to find permanent settlement for those left in detention.

Running these facilities is costing the Australian government well over \$1 billion a year. You can come up with a lot of creative options with that sort of money. And in the meantime, let's at least establish independent oversight of the offshore detention centres.

As for the 29,000 people in Australia, they are the product of policy changes in 2012. The establishment of offshore processing and boat turn-backs means there is no longer any reason for their purgatory. It is time to fast-track work rights and a pathway to permanent residency.

Finally, we need the government to pursue a genuine "regional solution". This is the most realistic and durable long-term approach. The recent improvement in relations with Indonesia should make this easier. Again, our Prime Minister could ask, "What would Liberal-led Canada do?" By showing some leadership, Australia could drive the long-sought-after regional solution.

We should demand nothing less in 2016.

---->>>> Nicholas Reece is a principal fellow at the University of Melbourne and a former policy adviser to Labor prime minister Julia Gillard.

<http://www.theage.com.au/comment/australias-refugee-policy-must-change-now-20151224-qlulff.html>

## 9. Michael Gordon: My Manus Island nightmare

Punishing one group of people endlessly in order to deter others is immoral.

The Age  
December 25, 2015 - 7:00PM  
Michael Gordon

Two images, a few days apart, are proving hard for me to shake. The first came the day I flew to Port Moresby in September to cover what turned out to be Tony Abbott's last international engagement as prime minister, the South Pacific Forum.

After catching a taxi from our heavily fortified hotel to the opening ceremony that evening, I shared a lift back with colleagues who made a wrong turn and stumbled into an ambush.

The image is the moment we realise 44-gallon drums are blocking the road in front of us and an armed mob is running towards us and pelting us with rocks, prompting Mick, photographer and driver, to reverse at high speed.

I touched on what followed in a column at the time: how we ended up in a dark dead end with our attackers closing in; how Mick reversed towards them and blew a tyre in the process; how the side mirror was blown away and the car damaged by missiles and clubs; how two good Samaritans saved us.

The first anonymously removed one of the drums so we could make our escape; the second was Jeremiah, who pulled up when our car could go no further, helped change what was left of the tyre and warded off another mob from a nearby settlement when they approached.

Don't worry, he told us, he had a M16 in the back of his ute.

When we expressed our gratitude, the humble Jeremiah, an off-duty, second-generation cop, replied that he felt bad that we had endured such an ordeal in his home town.

The second image came after Abbott returned to Australia, oblivious to the fate awaiting him, and I flew to Manus Island to investigate the plight of about 50 asylum seekers who had been moved from the detention centre after being recognised as refugees.

It is when Loghman Sarwari breaks down while he is trying to explain, on camera, how much he misses the mother who believes he made it safely to Australia and is doing well. "Very far from here to my country," he says, his young voice breaking. You can find it on Google by searching my name and Manus.

Loghman arrived as a minor on Manus Island late in 2013, and was kept there after it was established that he was 17. Yesterday, he spent his third Christmas in PNG limbo.

The difference this time is that he was hoping to transition from the mind-numbing cocoon of the transit centre in Lorengau to life on his own in PNG, a journey potentially every bit as perilous as the one he took from Iran to Christmas Island.

After initially accepting an offer of employment, Loghman had second thoughts, fearing he could not survive on the weekly wage of about \$80, anxious about his safety and worried about what would happen if he became sick or lost his job.

Many of the refugees at the transit centre are too scared to go outside, yet they have been told their futures lie in Lae or Port Moresby, two cities where crime is random and common.

"Settlement areas of towns and cities are particularly dangerous," the Australian Foreign Affairs Department's smart traveller website says. "Bush knives (machetes) and firearms are often used in assaults and thefts. Carjackings, assaults (including

sexual assaults), bag snatching and robberies are common. Banks and automatic teller machines are attractive targets for criminals. The crime rate tends to increase leading into the Christmas holiday period."

One thing going for those desperate to leave Manus is that JDA Wokman, the company engaged by the PNG government to find employment for the refugees, is working hard on their behalf and acutely aware of the consequences of failure. But the challenge is huge.

Like Loghman, most of the refugees were denied education or training in their home country and are unskilled, so any jobs they are offered will be very low paid. If they manage to keep their jobs and stay safe, the prospect of saving enough to travel to meet family members in a third country is so remote as to be illusory.

Then there are the 926 asylum seekers who remain in the detention centre, where they exist on a diet of sedatives and pain killers, suffer a range of physical and mental disorders and where many regularly resort to self-harm.

When social justice advocate Dr Diana Cousens wrote in November to Malcolm Turnbull, expressing grave concern about the welfare of an asylum seeker who witnessed the slaying of Reza Barati last year, the reply said her letter had been referred to Immigration Minister Peter Dutton for a response. Weeks later, no response has arrived.

Recently, some of those in detention penned their own version of Jonathan Swift's satirical Modest Proposal of 1729, where he suggested that Ireland's impoverished might ease their economic troubles by selling their children as food for rich gentlemen and ladies.

Mimicking Swift's tone, the Manus detainees suggested the drain on the Australian taxpayer from their incarceration could end if they were dumped at sea, gassed or poisoned. They signed off by wishing Turnbull and Dutton a Merry Christmas.

"This is a letter of utter despair," says Macquarie University's Joseph Pugliese, one of the academics who formed Researchers Against Pacific Black Sites to give those on Manus and Nauru a voice.

"It's amazing that they can mobilise that satire, and play on the notion of civility and courtesy, when they are experiencing the savagery of a brutal system that is killing them," he says.

There is a view that the situation on Manus, like that on Nauru, is unsustainable, and that eventually the penny will drop that the end does not justify the means, that punishing one group of people endlessly in order to deter others is immoral and that there is another way to achieve the same policy objective. It used to be my view. Now I'm not so sure.

With the government and the opposition convinced that any solution that involves a portion of these people being resettled in Australia will "restart the boats", and a seemingly untroubled electorate, I fear it is sustainable.

That is my Manus nightmare. It is why the images that trouble me are two sides of the same coin.

<http://www.theage.com.au/comment/my-manus-island-nightmare-20151222-glitted.html>

## **10. 'We have a moral vacuum': Australian refugee charity takes on tough political climate**

The Asylum Seeker Resource Centre is one of six charities selected for the Guardian and Observer charity appeal

Full story at <http://www.theguardian.com/society/charity-appeal-2015-blog/2015/dec/23/australian-refugee-charity-takes-on-tough-political-climate>

The Guardian

Patrick Butler

Thursday 24 December 2015 01.02 AEDT

Fourteen years ago, Kon Karapanagiotidis founded the Asylum Seeker Resource Centre (ASRC). Since then it has supported more than 10,000 refugees in many different ways, from providing food to helping them seek refugee status and employment. This year it is one of the charities chosen for the Guardian and Observer appeal.

Karapanagiotidis told us what inspires him, about the charity's beginnings as a student project and what it is like to operate in the toxic political environment in Australia.

### ***Tell us about yourself: what were you doing before you founded the charity?***

I'm a lawyer, teacher and social worker by trade. Before starting the ASRC in 2001 at 28, I had volunteered [at] 25 charities over a decade. What drew me to refugee and asylum seeker work was my personal background. My grandparents were refugees in the early 1920s: Greeks who fled the Pontian genocide in Anatolia.

When my parents came to Australia in the 1960s they experienced racism. I grew up in a small country town, one of only two Greek families, and on a daily basis was subjected to racist abuse, from “go back to your own country” to being a “dirty wog”. Knowing what it was like to not fit in anywhere growing up and not feeling welcomed rooted in me a deep sense of social justice and empathy for other people and communities that felt marginalised.

[...]

### ***How would you describe the current political environment for refugees and asylum seekers***

It's the worst that I have ever witnessed. The official policy of the Australian government is to engage in refoulement [forcing people back to their place of origin where they are at risk of persecution] and to continue to indefinitely detain over 200 children, threaten to jail for up to two years whistleblowers who report child abuse in detention centres, including doctors and nurses. We have killed more refugees on Manus Island than we have safely resettled.

We have a code of behaviour that allows the Australian government to indefinitely re-detain a person seeking asylum for the following: gossiping at work, a parking fine, having a house party where the music is too loud, to spitting in public. The Australian government has removed the refugee convention from statute law, has cut 95% of all legal funding for people seeking asylum, and has left 30,000 people seeking asylum in limbo for three years without the right to work or any legal processing to break them. This is just a fraction of the horror being inflicted and it is getting worse as it's a vote winner.

Full story at <http://www.theguardian.com/society/charity-appeal-2015-blog/2015/dec/23/australian-refugee-charity-takes-on-tough-political-climate>

## **11. How Australia's immigration detention regime crushed Fazel Chegeni**

Exclusive: More than 700 pages of the Faili Kurd's immigration department file show how he was trapped in a bureaucracy that did not care for him

The Guardian  
Ben Doherty  
Monday 21 December 2015 06.51 AEDT

Full story including FIO papers: <http://www.theguardian.com/australia-news/2015/dec/21/how-australias-immigration-detention-regime-crushed-fazel-chegeni>

For a man who was stateless, who lived his life belonging to nowhere, the foothills of Kabir Kuh, the great mountain of western Iran, are as close as anywhere Fazel Chegeni knew to home.

Now, he is, finally, home.

Flown from Australia last week, the body of the refugee who died in November on Christmas Island has been returned to his family in Ilam province in western Iran. Chegeni was buried on Saturday in the soil of the country where he grew up.

He was laid to rest just a valley or so away from Reza Barati, a man he never met, but another who died in Australian immigration detention. But whereas Barati died a sudden violent death, in the madness of one night of harrowing violence, Chegeni was killed slowly by the machinery of detention itself.

His death was the inexorable crushing of a man trapped in a bureaucracy that did not, and could not, care for him.

Guardian Australia has obtained more than 700 pages of Chegeni's immigration department file, and has spoken to more than a dozen people who knew him, inside the detention system and out. The documents detail Chegeni's brutal torture, including rape, at the hands of the Iranian regime, the alarming deterioration on his mental health in detention, and the repeated requests for intervention from health professionals that were not acted upon.

The testimony of those who knew him say they saw a man's will steadily eroded by an incarceration he couldn't see a way out of, a detention that was potentially indefinite.

Chegeni's wretched existence in Australia's detention regime exposes the inefficiency and incompetency of a system that was legally obliged to look after him, but utterly failed to do so.

His fate was entirely predictable to those who knew him, and knew his history. Over four years, scores of people within Australia's immigration department pleaded on Chegeni's behalf for him to be helped.

His bulging departmental file shows that on at least a dozen occasions, immigration department officers suggested, requested, and finally pleaded, for senior management to intervene in the case of a man clearly headed for catastrophe.

Throughout Chegeni's file, case managers, psychologists, detention centre operators, and immigration officers consistently warn that his mental health is being harmed by his ongoing detention, highlighting his history of torture and trauma in Iran and his repeated suicide attempts, and stating he should be released from detention.

But the rigid brutality of Australia's migration act, and the bureaucratic inflexibility of Australia's detention regime meant he faced, potentially, a lifetime of incarceration.

In the wake of his death on Christmas Island – Chegeni's body was found in bushland two days after he had escaped from the island's detention centre – riots broke out yet again in the centre.

They were, again, quelled – they are near enough to an annual occurrence now – and life in detention resumed.

But one life wasn't resumed, and those who knew Chegeni have been left asking: "Why could no one do anything?"

### ***A life on the margins***

Chegeni, whose full name was Fazel Chegeni Najad, was a Faili Kurd, born in Ilam province, in western Iran in 1981. When he was 14, his family moved to the capital, Tehran, seeking a more prosperous future, including work for their teenage son.

But Tehran held little promise. Chegeni's was always a life on the margins. As a Faili Kurd, Chegeni was not recognised as an Iranian citizen: the regime regarded the Faili as Iraqis who were expelled, as Chegeni's parents were, by Saddam Hussein in the early 1980s. In the decades since, there has been some slow repatriation, but many Faili remain caught, unpeople welcome nowhere.

Chegeni had never been to Iraq, had never left Iran, but in Iran his status as Faili meant he never went to school. He could never visit a hospital, obtain a licence, or vote.

Invisible, he worked odd jobs in the informal, black economy. The work was perilous, and his labour exploitable. There was no one to whom could he complain when he was ripped off. He drifted between jobs and was often unemployed.

Then he was arrested.

In interviews months later with Australian immigration department officers, Chegeni would recall in brutal detail the particular tortures inflicted upon him.

In 2004, at a relative's wedding, a fight had broken out over a previous marriage, and Chegeni, trying to intervene to stop the groom being beaten, was attacked with knives, and cut deeply. Without identity documents, he had no right to visit a hospital, so a relative stitched his wounds, leaving him with long jagged scars across his body.

Two years later, during a raid on his village, his scars attracted the attention of the Sepah, Iran's feared paramilitary intelligence agency, who suspected he was a troublemaker. He was taken to Khirzan prison, where he was held for 40 days.

"There were two men, Hussaini and Mosavi," Chegeni would tell Australian immigration officials through an interpreter, "and their role was to torture me."

"They would undress me completely and force me to clean around the toilet with my tongue. They would then spit on batons and rape us with them. They would say that I was here to die.

"I was fed 50 grams of potato and one slice of bread each meal. I had lost so much weight that I became skeletal. As they believed that I was dying, they released me into the desert."

But Chegeni found his way back to Tehran. His family didn't recognise him when he finally arrived home, so much weight had he lost. More than six feet tall, he weighed less than 50 kilograms.

Chegeni was now on the radar of authorities. Over the following years, he was hauled in again and again, questioned over and over, before finally, he decided to leave.

In February 2011, Chegeni paid for a fake passport and a ticket on a flight to Dubai. From there he flew to Indonesia. Eight months later, after negotiations with a smuggler and paying him \$11,000 of borrowed money, Chegeni had a place on a boat bound for Australia.

He arrived on Christmas Island on 23 October 2011.

The Australian government is comprehensively aware of the systemic persecution faced by the Faili Kurdish ethnic minority in Iran's Kurdish communities. "[They] face discrimination in housing, education, freedom of expression and religion, health and employment," Chegeni's departmental file says.

"The government restricts cultural and political activities, including the organisation that focus on social issues. The provinces where they live are the poorest in the country ... cases of excessive child malnutrition and extreme poverty have also been recorded in these areas."

Chegeni also told the immigration department of the broad discrimination Faili Kurds suffer in Iran.

"Due to the fact I am a stateless Faili Kurd," he said. "I have been continually discriminated against and persecuted in Iran. I was unable to obtain even limited schooling. Without education it has been difficult for me to subsist in Iran. I have also had issues with employment. I am illiterate and I am ashamed of that."

The persecution would be worse, he said, if he were sent back. The act of claiming asylum in the west meant the authorities "would consider me a spy".

Asked by his interviewers what would happen if he went back to Iran, Chegeni told them: "if I was forced to return, I would be severely harmed, if not killed".

Full story including FIO papers: <http://www.theguardian.com/australia-news/2015/dec/21/how-australias-immigration-detention-regime-crushed-fazel-chegeni>

## **12. Nun completes 26-day anti-detention protest in front of Parliament House in Canberra**

ABC News Online

By Sam Provost

Posted Thu 24 Dec 2015, 3:32am

A 70-year-old nun has been camped outside Parliament House for the past 26 days in an effort to raise awareness about the plight of refugees on Nauru and Manus Island.

"I have come here to shout loudly to the guys on Manus and the children on Nauru. What I am shouting is 'asylum seekers, I am with you'," Sister Jane Keogh said.

Sister Jane has observed the period of advent by walking around Canberra's Lake Burley Griffin twice a day, praying, talking with supporters and spending her nights within the Aboriginal Tent Embassy.

She said she had been working with refugees for 14 years and said the experience made her "ashamed to be an Australian".

"I think our symbol of Parliament should be a symbol of democracy, of freedom, of a fair go - but it isn't," she said.

"We are known throughout the world now for our cruelty.

"People overseas can't believe we are the only country with mandatory detention, we are the only country that locks up children."

Her protest received attention from politicians who supported Sister Jane's cause.

"Lee Rhiannon, Janet Rice, and Melissa Park have come down. Christina Hobbs came and spent a night in my tent with me," she said.

### ***Sister Jane arrested as part of sit-in***

But the protest was not Sister Jane's first.

In November 2014 she and other members of the Love Makes A Way Movement staged peaceful protest in Senator Zed Seselja's Canberra office.

The group refused to leave the building until they had received "a satisfactory answer to when the 798 children and their families [would] be released from immigration detention".

The group were arrested after they deemed Senator Seselja's answer unsatisfactory.

Sister Jane said she welcomed the arrest, as it raised awareness of their cause.

<http://www.abc.net.au/news/2015-12-24/nun-completes-26-day-protest-in-front-of-parliament-house/7051796>

## 13. Witnesses in Christmas Island class action exempt from Border Force Act secrecy provisions

The Victorian supreme court has cleared a path for potential witnesses to give evidence about conditions on Christmas Island without breaking the law

The Guardian  
Richard Ackland  
Monday 28 December 2015 11.14 AEDT

The supreme court of Victoria has made orders that give witnesses in a Christmas Island class action an exemption from the secrecy provisions of the Border Force Act. This could be seen as bringing the spirit of Christmas to the eponymous island.

The law firm Maurice Blackburn has brought a representative class action on behalf of asylum seekers on Christmas Island, alleging that for three years up to August 2014 there was a lack of medical care and support services for detainees.

The defendants are the Minister for Immigration and Border Protection and the commonwealth of Australia, with International Health and Medical Services and Serco Australia joined as third parties.

The secrecy provisions of the Border Force Act attracted great notoriety when introduced into parliament last February, providing for two years' jail for the disclosure of "protected information" by "entrusted persons".

These punitive sanctions extend to current and former immigration and border protection workers, and a variety of categories of people who provide services to the department, non-government consultants, contractors and sub-contractors.

Doctors and other health workers have been at the forefront of protests against the secrecy provisions of the act.

Late last month Victorian the supreme court judge Jack Forrest, in response to an application by Maurice Blackburn to interview potential witnesses without them risking penal sanctions, said it was important to see that there was a fair trial of the issues at stake in the class action. To that end, he made orders that navigate a way around the information lock-down in the Border Force Act, the Crimes Act and in the confidentiality clauses in the contracts of service workers.

All is not plain sailing, even though the Border Force Act provides an exemption for entrusted persons to disclose protected information where this is "required" by an order or direction of a court or tribunal.

Forrest had to grapple with the word "required" because in this instance witnesses approached by Maurice Blackburn may mistakenly think there is a legislative obligation on them to speak to legal representatives about conditions at the detention centre.

Eleven unnamed potential witnesses have been identified and the plaintiff originally sought orders that would allow open-ended interviews in the search for "high level" information. This was opposed by IHMS and Serco and eventually the impasse was resolved by an agreement for a two-step process.

Step one would allow the plaintiff's lawyers to submit a confidential affidavit to the court with the names and addresses of each witness sought to be interviewed and the role they played on Christmas Island. The court would then inspect that list and, if satisfied, make stage two orders enabling the lawyers to conduct more extensive interviews, if the witnesses voluntarily consent.

Applications to the court will also have to be made on a witness-by-witness basis in relation to those affected by the secrecy provisions of the Commonwealth Crimes Act and confidentiality clauses in service contracts.

Forrest helpfully added:

"If there is an impasse as to the effect of confidentiality obligations in the pre-trial process, the court may need to fashion its own process to deal with the issue. To put it less cryptically, it may well be that a confidential deposition of a relevant witness may short cut months of argument about appropriate processes and save (at least) part of one small rainforest."

IHMS and Serco argue that there is a distinction between requirements for pre-trial disclosure and disclosure at trial. However, there is authority from the high court and elsewhere that obligations of confidentiality will not be enforced where their application involves "an interference with the administration of justice".

In any event, the stage one affidavit in relation to border force secrecy has to come back to court on 1 February next year. The trial is set down for hearing on 5 September.

In an earlier preliminary round in April, Justice Stephen Kaye ordered the commonwealth to delay the planned demolition of the alluringly named Aqua and Lilac compounds on Christmas Island.

Maurice Blackburn said it wanted access to the compounds to inspect detention conditions. The Department of Immigration and Border Protection had insisted that only departmental staff be permitted to take photos and videos of the compounds on behalf of the plaintiff's lawyers.

The whole thrust of the border force regime is designed to keep the Australian public in ignorance of what is really going on in immigration prisons.

The lid is supposed to be tightly clamped. Occasionally isolated types from the "stop the boats" cheer squad have been allowed to report on what are effectively "black hole" offshore prisons – but this is the exception rather than the rule.

It seems scarcely conceivable it was envisaged by the minister, Peter Dutton, that the limited legislative exemptions would extend to allowing information to be used against the commonwealth in cases where the government was being sued for negligence and other wrongs.

As it happens, Guardian Australia already has ably assisted the plaintiff's case by revelations on the difficulties experienced by IHMS in balancing its commercial imperatives with its healthcare obligations.

<http://www.theguardian.com/commentisfree/2015/dec/28/witnesses-in-christmas-island-class-action-exempt-from-border-force-act-secrecy-provisions>

## **14. MEDIA RELEASE: Concerns increase for re-detained Christmas Island Iranian hunger striker**

Thursday December 24, 2015  
Refugee Action Coalition  
Ian Rintoul  
mobile 0417 275 713

Refugee advocates are growing increasingly concerned for the welfare of an Iranian asylum seeker, Ali Sadaat, detained on Christmas Island. The 21 year-old man has been on hunger strike for 11 days, and his condition is deteriorating.

Ali was just 17 years old when he arrived by boat in Australia on 1 November 2011. Although his claim for asylum was initially rejected, Ali was released into community detention.

He converted to Christianity in December 2012. He had been attending school and living in the community in Sydney.

But Ali is a victim of the draconian 'code of conduct' rules which have been used to re-detain scores of asylum seekers for breaching the code even when charges have been dropped or dismissed by the police or the courts.

This Ministerial power allows a form of "double jeopardy" under which asylum seekers may be effectively imprisoned by the Minister even when they are of no interest to the police or the judicial system.

Ali was re-detained in Sydney in late 2013, after police found him on a train with alcohol. He was later fined \$700 and given a nine months good behaviour bond.

But for that misdemeanour, the Immigration Department has used its 'code of conduct' rules to imprison him for over two years. It is a punishment out of all proportion to any offence he may have committed on the train.

Ali was initially re-detained in Villawood; he was then sent to Darwin in 2014 and was sent to the Christmas Island, around 10 weeks ago.

Despite requests for Ministerial intervention, supported by many Australian citizens and church congregations, Ali has been left in detention. Ali has been now been waiting months for the results of a departmental review of his case.

Despite being involved in on-going legal matters (including one case about his Christian beliefs) which are not due to come before the courts until the middle of 2016 at the earliest, the Immigration Department has refused to issue Ali with a bridging visa that would allow him to live in the community.

"The injustice of Ali's detention is obvious. There is every reason for Ali to be released. The Minister has the power to intervene in Ali's case and do the right and sensible thing," said Ian Rintoul, spokesperson for the Refugee Action Coalition.

"Being re-detained has not only robbed Ali of more than two years of his life; it has robbed him of hope and his mental health. His hunger strike is a desperate plea for justice. The Minister should urgently intervene."

For more information contact Ian Rintoul 0417 275 713

## 15. Immigration officials knew refugee Abyan still wanted abortion, emails show

Documents released under freedom of information show the department was informed of Abyan's wishes before it had her deported to Nauru in October

The Guardian  
Merran Hitchick  
Saturday 2 January 2016 17.00 AEDT

Newly released documents show that the immigration department knew that a pregnant Somali refugee who asked for an abortion did not change her mind once she got to Australia from Nauru.

The 23-year-old woman, known as Abyan, was allegedly pregnant as a result of rape. In October, she was transferred to Australia, but then abruptly sent back to Nauru on a chartered flight as her lawyers were appealing for an injunction to prevent her from temporarily being removed from the country. They maintained she still wanted the termination.

At the time, the immigration minister Peter Dutton said she had changed her mind about having an abortion, and that reports to the contrary were a "fabrication". The prime minister, Malcolm Turnbull, also said Abyan was returned to Nauru because she decided against the procedure.

Immigration department official Neil Skill, who was involved in the decision to return Abyan to Nauru later told a Senate estimates hearing: "I have seen advice from two medical professionals indicating that she had declined to undergo the procedure on the day and also declined the offer of a scheduled appointment in a week's time. On the back of that information, I made the determination that there is no medical procedure at this point of time and that the individual should return to Nauru."

Documents obtained by lawyer and human rights activist Kellie Tranter under freedom of information, and seen by Guardian Australia, contain correspondence about Abyan between senior staff at the Department of Immigration and Border Protection.

One email from an employee of International Health and Medical Services to Amanda Little, assistant secretary of detention health services, sent three days after Abyan was flown back to Nauru, said: "After she declined the procedure, I asked her (more than once) whether she had changed her mind and no longer wanted a TOP [termination of pregnancy]. She consistently said she still wanted to have a TOP, she just didn't want it that day or the following week."

The correspondence also details the planning before Abyan was granted permission to be transferred to Australia for the termination procedure, including a warning that allowing her into Australia meant her lawyers could take steps to keep her from being returned to Nauru.

"There is a risk that once in Australia [Abyan] will seek to join legal action which would prevent her return to Nauru after completion of medical treatment," said a minute attached to the recommendation that Abyan be brought to Australia.

The documents also show that before Abyan was removed from Australia, Little and Skill had been informed that she had said she felt "too mentally unwell" to have an abortion at once, but "she did make it clear that she hasn't completely changed her mind and understands that she can access the procedure in New South Wales up to 20 weeks [pregnant]".

The documents do not indicate that Dutton was aware of the details of Abyan's discussions with health professionals.

Tranter has called for a royal commission into the immigration department in response to the documents.

It was revealed in October that the immigration department had failed to act on three requests from senior medical staff on Nauru to move Abyan to Australia when she sought a termination.

Documents showed International Health and Medical Services (IHMS) staff made the first request for her urgent transfer on 16 September in a "request for medical movement" form, with follow-ups on 29 September and 6 October.

These apparently contradicted Dutton's comments to federal parliament on 19 October that Abyan had not been transferred due to "an initial delay ... because of other, unrelated health issues which meant she could not fly, and also a delay around getting an appointment".

At the end of October, Dutton said Abyan would be brought back to Australia to have an abortion. She is now in Brisbane receiving medical care.

<http://www.theguardian.com/australia-news/2016/jan/02/immigration-officials-knew-refugee-abyan-still-wanted-abortion-emails-show>

## 16. Pregnant Somali asylum seeker Abyan wanted an abortion, FOI documents reveal

ABC Radio CAF - AM

By Bonny Symons-Brown

Posted Sat 2 Jan 2016, 6:12am

A Somali asylum seeker allegedly raped on Nauru wanted to terminate her pregnancy, documents obtained under Freedom of Information laws has revealed.

In October, the 23-year-old woman, known as Abyan, was transferred to Australia for an abortion, an illegal procedure on Nauru, after the Federal Government's healthcare provider advised senior departmental staff "there are risks of deteriorating mental health and psychological distress".

But five days later, Immigration Minister Peter Dutton publicly stated Abyan decided not to proceed with the abortion and she was sent back to Nauru, still pregnant.

Mr Dutton also accused refugee advocates of lying about the situation.

Correspondence between senior staff at the Department of Immigration and Border Protection has now revealed why Abyan was removed from Australia.

A minute from Australian Border Force warned: "There is a risk that once in Australia [Abyan] will seek to join legal action which would prevent her return."

Lawyer and human rights activist Kellie Tranter received the documents.

"I was particularly concerned that his woman, or indeed any woman, who had been through such traumatic circumstances was portrayed as somebody who was deliberately and in some calculated fashion trying to engineer a way into the country," Ms Tranter said.

### ***Abyan 'made it clear she had not changed her mind'***

The documents also showed Abyan told a medical professional she felt "too mentally unwell" to undergo the termination procedure immediately, but "she did make it clear that she hasn't completely changed her mind and understands that she can access the procedure in New South Wales for up to 20 weeks".

Abyan's position was immediately conveyed to the department.

Ms Tranter said Abyan's wishes were clear and they were misrepresented.

"The documents certainly suggest that in the case of Abyan that the department, at least two senior bureaucrats within the Department of Immigration and Border Protection were certainly aware that Abyan had not refused to have a termination," she said.

"She obviously was not keen to have a termination of pregnancy at that point in time, but it was not ruled out on her part. And certainly the medical advice the department received was to that effect."

Abyan's lawyer David Manne told AM she never declined a termination of her pregnancy outright.

Ms Tranter has called for a Royal Commission into the Immigration Department's handling of asylum seekers and refugees.

She wanted to know how much Mr Dutton knew.

"The documents that have been produced under FOI do not implicate the Minister directly," she said.

"Either the minister was misinformed by his department about the actual circumstances around Abyan's case, in which case he'd have a serious problem, or he did know and again he would have a serious problem.

"And that stretches right up to the Prime Minister, because let's not forget Prime Minister Turnbull has backed that version of events."

"As the Minister has clearly stated previously this is a private medical matter and we do not intend to comment on an individual's medical issues," a spokesman for Mr Dutton told the ABC.

"Appropriate health support, information and counselling was provided at all times and decisions were made based on medical advice."

Abyan was eventually flown back to Australia for a second time several weeks later.

She remains detained in Brisbane, where she is receiving medical treatment.

<http://www.abc.net.au/news/2016-01-02/pregnant-asylum-seeker-wanted-an-abortion-foi-documents-say/7064038>

## **17. British Syrian-born woman has visa revoked without explanation before flight to Australia**

UK citizen Zahra Ramadani, 30, was due to fly to Sydney on Thursday but was told she was no longer eligible to enter the country after her visa was cancelled

The Guardian  
Nicola Slawson in London and Helen Davidson in Darwin  
Friday 25 December 2015 04.25 AEDT

A British woman who was born in Syria has been refused entry into Australia, after her visa was issued and then revoked without explanation.

Zahra Ramadani, 30, from west London, was due to fly to Sydney on Thursday with a friend but was contacted by the Australian High Commission on Wednesday to say her visa had been revoked and that she was no longer eligible for entry into Australia.

The incident comes in the wake of several controversial visa refusals. The Australian government was criticised this week after it initially refused to grant visas to the family of a dying Pakistani student, who is too sick to fly home and is being cared for in a homeless shelter.

In the UK a British imam was the second British Muslim to report he had been refused entry to the US after his business visa was revoked without explanation as he attempted to board a plane to New York.

Ramadani, a project manager in business development for Marks and Spencer, told the Guardian she felt the only explanation for the rejection of her visa to Australia is her place of birth.

Her family originally fled to Syria from Iraq in 1980 before seeking refuge in the UK in 1989 when she was four years old. She said: "I'm really disappointed because I'm a British citizen and I have lived here most of my life. I'm law-abiding and I lead a pretty normal Londoner's life. I am not remotely religious."

"I didn't even know I needed a visa. I thought, well, I'm British, there's the commonwealth, you don't need one."

To enter Australia, tourists have two options, an eVisitor visa which can be applied for directly from the Department of Immigration & Border Protection or an Electronic Travel Authority (ETA) which you can obtain via travel agents or airlines.

The two women, who were due to stay in Sydney until 1 January before joining friends in New Zealand for 17 days, had applied for the eVisitor visa from the same website. The only difference between them was that on the first page, Ramadani stated her birthplace as Syria. She was then directed to a much more complicated second page than her friend, who only had to give a few simple details before being granted a visa "almost immediately" according to Ramadani.

"I filled in my form first," she said. "Mine was incredibly complicated. I had to give them my full employer's details, every single member of my family, my friend's details etc. I've never done an e-visa like that before. My friend called me and said that her form asked for none of those questions. I feel like it must just be due to my place of birth"

When no visa came through, she called the helpline and was told to try the ETA instead. After applying for that and receiving an email to say she was successful, she attempted to check-in to her flight before being told by the airline that there was a problem. She said: "I thought everything was OK but the airline said I wasn't valid and then I got the email from the High Commission to say my visa had been revoked and that it had been issued in error."

"I'm really angry because my holiday was meant to start [today]. It's ruined it for my friend as well. We booked our tickets and accommodation three months ago and I've been saving up. I've had no time off this year and have worked really hard for this.

"You can't marginalise people like this. To be brutally honest, all this is very off putting, and I'm beginning to think that out of principle I shouldn't consider Australia as a holiday destination – especially that it is people of my background that are not welcome and are treated in this way."

"I know my experience doesn't compare – but it has made me think of their treatment of migrants and refugees, and foreign policy, and is making me think that out of principle I shouldn't be contributing to Australia's tourism."

While there was some suggestion her visa may be returned, the Australian department of immigration and border protection did not respond by deadline, and as it stood on Thursday morning Ramadanani remained unable to travel.

She told the Guardian on Thursday morning she had received an email asking for her employer's details – information she said she has already provided – but nothing more.

Ramadanani's MP, Labour's Steve Pound, said: "I'm horrified at the brute insensitivity of the Australian government who cancelled my constituent's perfectly valid visa less than 24 hours before she was due to fly.

"I'm depressed that no-one is available to speak at the Australian high commission and I'm ashamed of the UK Foreign and Commonwealth Office where the phones ring without answer in the offices of the regional minister, Hugo Swire, and where the office of the foreign secretary promise action, do nothing, never call back and state that they are wholly unaware of this and the other two high profile visa refusals all over the press.

"But, above all, I weep for Zahra, who is as much a threat to Australia as a wombat and has been treated disgracefully. I can only hope that a last minute burst of activity from the previously inactive can save the day for a decent, hardworking British citizen who deserves far better."

<http://www.theguardian.com/australia-news/2015/dec/24/british-syrian-born-woman-has-visa-revoked-without-explanation-before-flight-to-australia>

## **18. Syrian-born British woman Zahra Ramadanani 'denied entry to Australia without explanation'**

ABC News Online

First posted Thu 24 Dec 2015, 8:46pm

Updated Fri 25 Dec 2015, 2:28am

A Syrian-born British woman says she has been denied entry to Australia without explanation.

Zahra Ramadanani, 30, who lives in London, had hoped to be in Sydney for the New Year's Eve fireworks before travelling around New Zealand for about two weeks.

She said she received notification that her application for an Electronic Travel Authority (ETA) was successful, but was later told it had been revoked and she was not eligible for a visa to Australia.

"I went to check-in [for my flight], and I got an email from the High Commission saying it had been overruled and that I was not eligible for a visa to Australia," she told the ABC.

"I asked what was wrong. I got a reply saying it was issued in error and it needed further time for processing."

An ETA can be obtained via airlines and travel agents for visits to Australia of up to three months.

Ms Ramadanani said she had applied for another type of visa, an eVisitor visa, on Monday, but had not received a response.

She said she called the Australian High Commission and was told to apply for a ETA because "maybe they could get it through faster".

"[The eVisitor visa] form was really complicated," she said.

"I rang my friend and told her I needed her details, because I was asked for my companion's details, my employer's details, it was very ridiculous."

Ms Ramadanani said the questions on her application were very different to those of her friend, who is also British but born in Bahrain.

"She entered Bahrain [as her place of birth], which is also a Muslim country. Her page two was very different to mine. Bear in mind that we're both British, both not born in the UK," she said.

"She got an automated response saying it was all fine. I didn't hear anything.

"When I asked [the High Commission] why I had a different form to my friend's in the first place, I didn't get a response. For me, the suspicion started there.

"The last time I went to Syria was about six or seven years ago. I've never had any problems. No convictions, nothing."

When contacted, a spokesperson from the Department of Immigration and Border Protection said "the individual has made two separate applications for two different visas to enter Australia".

"In such circumstances the department needs to resolve the different visa applications," the statement said.

"The department is in contact with the individual applicant and is working to resolve the application."

This week, the relatives of a terminally ill Pakistani man were granted visas to Australia after their applications were initially declined.

<http://www.abc.net.au/news/2015-12-24/syrian-born-british-woman-denied-entry-to-australia/7053838>

## **19. Pakistani family of Hassan Asif denied Australian visa to visit terminally ill man**

ABC News Online

By political reporter Stephanie Anderson

First posted Tue 22 Dec 2015, 3:50pm

Updated Tue 22 Dec 2015, 3:52pm

The Immigration Department says it will not review the visa requests of a Pakistani family who have been denied a visit to their dying son in Australia.

Hassan Asif came to Australia as a student before being diagnosed with terminal cancer.

The 25-year-old Pakistani man has only weeks to live, according to his end-of-life care providers, but his mother and brother have been denied visas to visit him.

A spokesperson for the Department of Immigration and Border Protection said that while the "compassionate nature" of the visit was considered, the requests would not be reviewed.

In a statement to the ABC, the Department spokesperson invited Mr Asif's family members to lodge new applications.

"When deciding if an applicant intends a genuine temporary stay in Australia, the decision-maker must take into account relevant considerations such as the applicant's personal circumstances, incentive to return home, financial situation and ability to support themselves while in Australia," the spokesperson said.

"The likelihood of an applicant overstaying or seeking to remain permanently in Australia is also a matter that must be assessed. Particularly in compassionate circumstances, a decision-maker takes all of the facts of a particular case into consideration.

"In this case all of the facts have been taken into consideration and the decision-maker has not issued the visa."

The Department also offered its sympathy to the family of Mr Asif, who is currently in the care of a Melbourne City Mission youth homelessness refuge.

In a statement on its website, the Mission urged Immigration Minister Peter Dutton to review the decision.

It stated that Mr Asif had no family or community ties in Australia.

"Melbourne City Mission believes it is unconscionable that this young man — who has family — be allowed to die without a loved one by his side," the statement read.

<http://www.abc.net.au/news/2015-12-22/man-with-cancer-has-weeks-to-live,-family-denied-visa/7049116>

## **20. Immigration department refuses visas for family of dying Pakistani student**

Hassan Asif, 25, has just weeks to live after being diagnosed with advanced skin cancer, but his mother and brother have been refused visas to visit him

The Guardian

Guardian staff

Wednesday 23 December 2015 06.52 AEDT

The immigration department has refused to review a decision to deny visas to the family of a Pakistani student who was diagnosed with terminal cancer and has only weeks to live.

The 25-year-old, Hassan Asif, is being cared for by a homeless charity, Melbourne City Mission.

The charity has urged the immigration minister, Peter Dutton, to overturn the department's decision and grant a visa to Asif's mother and brother on compassionate grounds.

In a statement, Melbourne City Mission said Asif had no other family in Australia and it was "unconscionable that this young man – who has family – be allowed to die without a loved one by his side".

Sherri Bruinhout, Melbourne City Mission's homelessness and justice services director, told the Herald Sun Asif was "absolutely devastated" to find out his mother and brother had been denied visas.

"His last wish is to have somebody hold his hand at the very end."

Asif was diagnosed with metastatic melanoma in April, and although he initially had intended to return to Pakistan, he was too ill to fly. He had been studying architecture at Victoria University.

A spokesperson for the immigration department told ABC that it had considered the compassionate nature of the request, but it would not be reviewing its decision. However, the department urged the family to lodge a new application.

"When deciding if an applicant intends a genuine temporary stay in Australia, the decision-maker must take into account relevant considerations such as the applicant's personal circumstances, incentive to return home, financial situation and ability to support themselves while in Australia," the spokesperson told the ABC.

"The likelihood of an applicant overstaying or seeking to remain permanently in Australia is also a matter that must be assessed. Particularly in compassionate circumstances, a decision-maker takes all of the facts of a particular case into consideration."

<http://www.theguardian.com/australia-news/2015/dec/23/immigration-department-refuses-to-reconsider-visas-for-family-of-dying-pakistani-student>

## **21. Michael Gordon: A dose of compassion needed in the immigration department**

Sydney Morning Herald  
December 23, 2015 - 6:03PM  
Michael Gordon

Tony Abbott is gone, but the former prime minister's "nope, nope, nope" mindset when it comes to border protection is still pervasive.

The initial refusal of visas to a distressed mother and brother so they could visit a dying son and brother would have been shameful enough if this was a one-off.

It isn't. This is a department and a government with a compassion deficit and a default position that is to be deeply suspicious of requests, no matter how heartbreaking the circumstances.

Did the decision maker really think there was a serious prospect that the mother and brother of Hassan Asif would use his death as an opportunity to seek permanent residency in Australia? Apparently.

This is the department that ignored numerous recommendations to remove the Iranian Kurd, Fazel Chegeni, from detention before his tragic death on Christmas Island.

It is the department that continues to ignore pleas to allow the mother and brother of alleged rape victim Nazanin to leave Nauru to visit her in Brisbane and assist in her recovery.

And it is the department that keeps female victims of violence on Nauru in detention in Brisbane despite offers from respected agencies to care for them in the community.

Malcolm Turnbull says an essential quality for a leader is to possess emotional intelligence and the ability to put one's self in the shoes of others.

One of his projects for 2016 should be to inject a dose of that into the Department of Immigration and Border Protection and its minister.'

<http://www.smh.com.au/federal-politics/political-opinion/a-dose-of-compassion-needed-in-the-immigration-department-20151223-glu6dm.html>

## 22. Marles calls for family of dying Pakistani student to receive visas

ABC News Online

By political reporter Stephanie Anderson

First posted Wed 23 Dec 2015, 8:45am

Updated Wed 23 Dec 2015, 8:53am

The Federal Opposition is calling for Immigration Minister Peter Dutton to personally intervene in the case of a dying Pakistani man whose family were denied visas to visit him in Australia.

Hassan Asif came to Australia as a student before being diagnosed with terminal cancer.

The 25-year-old has only weeks to live, according to his Melbourne-based end-of-life care providers, but his mother and brother have been denied visas to visit him.

Shadow immigration minister Richard Marles said Mr Dutton should intervene and reverse the "callous" decision.

Mr Marles told the ABC that if the visas were denied due to a "compelling national security reason", the Government should make that clear.

"Short of there being some national security issues, common sense must surely prevail here and this dying man ought to be able to spend his last weeks with his family," he said.

"For every compassionate Australian, it beggars belief what is now facing this man.

"Without some form of intervention, he literally faces the last weeks of his life alone and that is an absolute tragedy."

In a statement provided to the ABC yesterday, an Immigration Department spokesperson said the family should reapply for visitor visas.

"When deciding if an applicant intends a genuine temporary stay in Australia, the decision-maker must take into account relevant considerations such as the applicant's personal circumstances, incentive to return home, financial situation and ability to support themselves while in Australia," the spokesperson said.

"The likelihood of an applicant overstaying or seeking to remain permanently in Australia is also a matter that must be assessed.

"Particularly in compassionate circumstances, a decision-maker takes all of the facts of a particular case into consideration.

"In this case, all of the facts have been taken into consideration and the decision-maker has not issued the visa."

Further comment has been sought.

Greens immigration spokesperson Senator Sarah Hanson-Young has called for Prime Minister Malcolm Turnbull to personally intervene.

Senator Hanson-Young posted the request on social media today, saying Mr Turnbull should "override Peter Dutton's decision".

### ***'He's still hanging on to trying to be positive'***

Mr Asif is currently staying with the Melbourne City Mission youth homelessness refuge, whose director of homelessness and justice services, Sherri Bruinhout, said he was previously living in student accommodation.

Ms Bruinhout told the ABC he was no longer able to pay for accommodation as his illness took hold.

"He came to our attention because he was trying to have chemotherapy while living in a squat," he said.

"It was a terrible situation. He didn't know where to turn. He didn't know there were services available to help him.

"He's still very hopeful. He's got a great sense of humour.

"He's still hanging on to trying to be positive about the prospect of seeing his family over the next week or two."

<http://www.abc.net.au/news/2015-12-23/labor-calls-for-dying-pakistani-students-family-to-receive-visas/7050338>

## 22. Peter Dutton defends decision to refuse visas to family of dying Pakistani student

Immigration minister says he must weigh up whether someone coming to Australia would make a claim for protection, and asks for more information from mother and sister of Hassan Asif, who has weeks to live

The Guardian  
Helen Davidson

Wednesday 23 December 2015 13.39 AEDT

Immigration minister Peter Dutton has backed his department's decision to deny the family of a young Pakistani student a visa to visit him before he dies of cancer in Melbourne.

However he said it was "likely" the family would be allowed to visit if they lodged a new application.

Hassan Asif, 25, has just weeks to live, after a diagnosis of metastatic melanoma in April, and is being cared for by a charity for the homeless.

Asif's brother and mother were both denied visitor visas by the immigration department, and Asif is too sick to travel.

Addressing media on Wednesday afternoon, Dutton said the decision of his department was "appropriate" but said he had asked for more information from the mother and brother, and requested that they lodge another application.

"The decision maker has to weigh up whether or not somebody coming to our country is likely to make a claim for protection or stay in Australia otherwise, and in some cases that can result in millions of dollars of expense to the taxpayer," said Dutton.

"It may mean that somebody is here on welfare for an extended period of time, so the consideration has to be in the national interest. There are many issues and this young man is in a terrible circumstance and the decision-maker has to weigh up not only the personal circumstances but also what is in the national interest."

Dutton noted the diplomatic post in Islamabad would be closed for about six days over Christmas, but he still hoped the matter would be resolved quickly.

"But I think with further information and a subsequent application I think that can be dealt with fairly quickly and hopefully the mother and brother can come to Australia sooner rather than later."

The department of immigration earlier did not respond to questions from Guardian Australia on how the decision was made or if they would review it in light of pleas from across Australia.

Several petitions had emerged calling for Dutton to intervene.

The Melbourne City Mission, which is caring for Asif at a youth homelessness refuge, asked Dutton to urgently reopen the case.

"Melbourne City Mission believes it is unconscionable that this young man – who has family – be allowed to die without a loved one by his side. Hassan has no family or community ties in Australia," it said.

A Change.org petition has urged the minister to allow Asif's mother to be with him.

Federal Labor's immigration spokesman, Richard Marles, said the decision appeared "disgraceful and heartless."

"Mr Dutton needs to immediately intervene and sort out this bureaucratic bungle," Marles in a statement. "If there is a legitimate national security risk that should be made clear. Otherwise, common sense and compassion should prevail."

Greens leader Richard Di Natale urged the government to "find a heart" and allow the visit of Asif's family.

"Hassan is entering the terminal phase of his life and is unable to travel overseas. To deny him and his family the chance to reunite once more is cruel," Di Natale said in a statement. On Tuesday the department told the ABC it had considered the nature of the request but would not be reviewing the decision. It urged Asif's family to reapply.

"When deciding if an applicant intends a genuine temporary stay in Australia, the decision-maker must take into account relevant considerations such as the applicant's personal circumstances, incentive to return home, financial situation and ability to support themselves while in Australia," the department said.

<http://www.theguardian.com/australia-news/2015/dec/23/peter-dutton-defends-decision-refuse-visas-family-dying-pakistani-student>

## 23. Peter Dutton confirms visas for Hassan Asif's family have now been approved

By political reporter Stephanie Anderson  
First posted Wed 23 Dec 2015, 11:03am  
Updated Wed 23 Dec 2015, 1:22pm

Relatives of a terminally ill Pakistani man are making arrangements to fly to Australia after being granted visas.

Immigration Minister Peter Dutton confirmed the family of Hassan Asif had their visas approved after they were initially denied.

Mr Asif came to Australia as a student before being diagnosed with terminal cancer.

The 25-year-old has only weeks to live, according to his Melbourne-based end-of-life care providers, but his mother and brother were denied visas to visit him.

Mr Dutton confirmed today the visas have now been approved.

In an earlier press conference, he said the decision maker in charge of the initial application made the right decision on the initial information provided.

He said the person responsible for the initial application had to consider whether or not somebody coming to Australia was likely to make a claim for protection, or stay in Australia.

"In some cases that can result in millions of dollars of expense to the taxpayer," he said.

"It may mean that somebody is here on welfare for an extended period of time so the consideration has to be in the national interest."

Labor's immigration spokesman, Richard Marles, earlier said Mr Dutton should intervene and reverse the "callous" decision.

"Short of there being some national security issues, common sense must surely prevail here and this dying man ought to be able to spend his last weeks with his family," he said.

"For every compassionate Australian, it beggars belief what is now facing this man."

Mr Asif is currently staying with the Melbourne City Mission youth homelessness refuge, whose director of homelessness and justice services, Sherri Bruinhout, said he was previously living in student accommodation.

Ms Bruinhout told the ABC he was no longer able to pay for accommodation when his illness took hold and that receiving the good news today was very emotional.

"Hassan's brother got the news from the Australian Government in Pakistan and was straight on the phone to Hassan to tell him how wonderful the news is," she said.

"I can tell you there were tears of happiness all round from Hassan and his family and from all the Melbourne City Mission staff and supporters that were with Hassan at the time."

<http://www.abc.net.au/news/2015-12-23/visas-for-parents-of-hassan-asif-approved/7050822>

## 24. Dying Pakistani student's family granted visas to visit, after immigration U-turn

Mother and sister may now visit Hassan Asif in Melbourne, after immigration minister Peter Dutton reversed announcement he had made minutes earlier

The Guardian  
Helen Davidson  
Wednesday 23 December 2015 14.17 AEDT

The immigration department has granted visas for the family of a young, terminally ill Pakistani student so they can visit him in Melbourne before he dies.

Despite the traumatic process, the young man "could not be happier" with the news, one of the people caring for him said.

The decision came to light just minutes after immigration minister Peter Dutton had backed his department's earlier decision to deny the family visas.

In a media conference Dutton cited the “national interest” and the cost of visa overstayers when defending the refusal, but said it was “likely” the family would be allowed to visit if they lodged a new application.

Hassan Asif, 25, has just weeks to live, after a diagnosis of metastatic melanoma in April, and is being cared for by a charity for the homeless.

Asif’s brother and mother were both denied visitor visas by the immigration department, and Asif is too sick to travel.

Addressing media on Wednesday afternoon, Dutton said the decision of his department to deny the family visas was “appropriate” but said he had asked for more information from the mother and brother, and requested that they lodge another application.

“The decision maker has to weigh up whether or not somebody coming to our country is likely to make a claim for protection or stay in Australia otherwise, and in some cases that can result in millions of dollars of expense to the taxpayer,” said Dutton.

“It may mean that somebody is here on welfare for an extended period of time, so the consideration has to be in the national interest. There are many issues and this young man is in a terrible circumstance and the decision-maker has to weigh up not only the personal circumstances but also what is in the national interest.”

Dutton noted the diplomatic post in Islamabad would be closed for about six days over Christmas, but he still hoped the matter would be resolved quickly.

“But I think with further information and a subsequent application I think that can be dealt with fairly quickly and hopefully the mother and brother can come to Australia sooner rather than later.”

Moments after the press conference ended, Sky News tweeted that visas had been granted, citing an interview with Dutton.

When contacted the department of immigration said there had been “some developments”, but was then unable to confirm the new decision and referred Guardian Australia to the minister’s office.

A spokesman for Dutton then confirmed the visas had been granted, and said Dutton was made aware of it only at the end of his press conference.

Sherri Bruinhout, the manager at Melbourne City Mission, which is caring for Asif at a youth homelessness refuge, was with him when he received a call from his brother in Pakistan to say the visas had been approved.

“There were tears all round from Hassan and his family and all of us and our workers,” Bruinhout told Guardian Australia.

“He could not be happier. Hassan was always confident the Australian government was a compassionate and caring government and he never lost faith the right decision would be made.”

The mission released a brief statement from Asif welcoming the decision.

“I want to thank the government of Australia and all the people of Australia and Melbourne City Mission for supporting me with my case,” he said. “And allowing me to be with me Mum and my brother. Thank you so much.”

Bruinhout said Melbourne City Mission was looking to get flights for Asif’s family as soon as possible, and they were all happy they could now support Asif to “die with dignity” surrounded by his family.

The department of immigration earlier did not respond to questions from Guardian Australia on how the decision was made or if they would review it in light of pleas from across Australia.

Several petitions had emerged calling for Dutton to intervene. The Melbourne City Mission had asked Dutton to urgently reopen the case. “Melbourne City Mission believes it is unconscionable that this young man – who has family – be allowed to die without a loved one by his side. Hassan has no family or community ties in Australia,” it said.

Labor and the Greens had also called on the minister to intervene.

On Tuesday the department told the ABC it had considered the nature of the request but would not be reviewing the decision. It urged Asif’s family to reapply.

“When deciding if an applicant intends a genuine temporary stay in Australia, the decision-maker must take into account relevant considerations such as the applicant’s personal circumstances, incentive to return home, financial situation and ability to support themselves while in Australia,” the department said.

<http://www.theguardian.com/australia-news/2015/dec/23/peter-dutton-defends-decision-refuse-visas-family-dying-pakistani-student>

## **25. With just weeks to live, dying Pakistani man reunited with family after visa backflip**

Sydney Morning Herald  
January 5, 2016 - 10:40AM  
Nicole Hasham

A dying Pakistani man studying in Melbourne has been reunited with his family, after a federal government decision to initially deny them visas triggered a public outcry.

The mother and brother of Hassan Asif, 25, who is receiving end-of-life care for skin cancer, arrived in Melbourne on December 29.

In a statement, Melbourne City Mission said the pair has since been "a constant and loving presence at Mr Asif's side".

Mr Asif had been receiving outreach palliative care but his health "continues to deteriorate" and he recently moved to a specialist medical facility, the mission said.

"On behalf of Mr Asif and his family, Melbourne City Mission thanks the community for their ongoing messages of support, all of which are being conveyed to the family," it said.

Mr Asif is thought to have just weeks to live and is too sick to fly home to Pakistan, where he had once hoped to return and begin work as an architect.

He wished to spend his final days with his family, but the Australian High Commission initially rejected their visa applications.

The Department of Immigration said based on the information provided in their application, the pair were considered at risk of overstaying their visa.

Labor's immigration spokesman Richard Marles last month described the decision as "disgraceful and heartless" and called on Immigration Minister Peter Dutton to intervene.

After a public outcry in Australia and overseas, the government asked Mr Asif's family to reapply for their visas, which included information about their finances and support from the local Pakistani community during their stay. The visas were then approved.

<http://www.smh.com.au/federal-politics/political-news/with-just-weeks-to-live-dying-pakistani-man-reunited-with-family-after-visa-backflip-20160104-glzd72.html>

## **26. MEDIA RELEASE: Nauru rule change makes sexual harassment official**

Monday December 21, 2015  
Refugee Action Coalition  
Ian Rintoul  
mobile 0417 275 713

Reports of women asylum seekers and refugees being sexually harassed while being searched on their way into RPC3, the camp accommodating families and single women, have emerged from Nauru.

At least two of the searches, one conducted on 6 December and another on 11 December have been the subject of official complaints, and the guards involved have been identified. Refugee women on Nauru believe at least another five or six women have been subjected to the abusive searches since the rule change.

No explanation has been given for the rule change, but the women involved believe that the guards are searching for smart phones, but also for perfume and lighters. Food and fruit brought from outside the camp is also confiscated.

Around 4pm, Sunday 6 December, a married Iranian female asylum seeker was returning to RPC3 having attended church. She was searched by four Wilson guards, two women (believed to be Australian) and two men. The two female guards eventually forced to remove her shirt in view of the male guards standing a short distance away.

Three days later, after lodging a formal complaint, she was visited in her tent by Wilson's Security officials who told her that there were new rules regarding searches and that the guards could 'touch their bodies.'

On the night of 11 December, around 11pm, a single Iranian woman was stopped at the RPC3 gate by a group of Wilson Security guards, five men and one woman. The female guard was an Australian national.

When the woman entered the gate, a male guard searched her with a security wand. According to the new rule, apparently put into force around 6 December, a woman is required to spread her legs and her arms for such a search.

This process has been an excuse for intimidating and abusive behaviour since it was implemented. Male guards have made the searches intrusive and threatening. The wands are waved between the woman's legs and often waved repeatedly over her breasts.

The humiliating and threatening elements of such searches are obvious, even if such searches are conducted by female guards in the presence of male guards.

On the night on 11 December, the Iranian woman was alone. She refused to spread her legs or arms for the male guard. Her refusal then bought a demand from the female guard told her she would have to lift up her T shirt and bra 'because maybe you have something.' This was done in front of the male guards.

After she had lifted her T shirt and bra, the female guard told her you have to go to a small room and remove all your clothes. The woman refused to go into the room, but did hand her ID to the female guard.

However, when she tried to leave, a male guard stood in her way, repeating that she had to go into the small room at the guardhouse and remove her clothes. Anxious and frightened, at the whole situation, she refused but was forced to push past the male guard to leave the area.

This asylum seeker, a previous victim of sexual assault and harassment inside the family camp was visited by Wilson's officials who confirmed the new rules that allowed body searches.

A few days after the search and after she had made an official complaint, the Iranian asylum seeker, told the Refugee Action Coalition, "I was very embarrassed and humiliated [by the searches],"

On 18 December, this woman was asked to provide a second statement to two Wilson's investigator who refused to give her a copy of the statement, but said it would report to 'his boss in Sydney'.

Despite the official complaints, the search regime is still in place. At the second interview the Wilson official confirmed that there are new search rules and repeated that she must spread her legs and arms to be searched, and that if the guards believe you 'have something' they can conduct a body search.

"These instances of reported abuse on Nauru at the hands of Wilson guards are particularly shocking given the scale of abuse that has been uncovered and confirmed by previous Australian government and Senate inquiries. That a government contractor could put new search rules in place that allow for the continued abuse of vulnerable women on Nauru is inexcusable," said Ian Rintoul, spokesperson for the Refugee Action Coalition.

"It is impossible to describe the distress of the women who are subject to the demeaning and intrusive searches. It does amount to officially sanctioned sexual abuse.

"It makes a mockery of the idea of that the detention centre on Nauru is an 'open centre.' It also makes a mockery of Malcolm Turnbull's government's supposed concern with violence against women -- when the government turns a blind eye to the abuse of female asylum seekers and refugees on Nauru.

"It is urgent that the new search regime is immediately ended. The searches have added an additional threatening dimension to detention on Nauru which is already overshadowed by violent sexual attacks outside of the detention centre."

For more information, contact Ian Rintoul mob 0417 275 713

## **27. Asylum seeker who lost eye in riot has claim against government, G4S settled**

Sydney Morning Herald  
December 18, 2015 - 5:21PM  
Michael Gordon

Almost two years after an asylum seeker lost an eye and suffered severe facial injuries during a riot at the Manus Island detention centre, his claim for damages for pain and suffering has been settled.

Supreme Court Justice John Dixon was told during a brief hearing on Friday that the man's claim against the Australian government and security provider G4S had been "resolved in principle".

Iranian Reza Barati was killed and more than 60 other asylum seekers were injured when locals, many of them employed as security guards, broke into the centre in February last year after two days of protests.

The asylum seeker who lost an eye, referred to only as RN, was one of several who suffered serious injuries. Another was shot in the buttocks and another had his throat cut.

When told the matter had been settled, Justice Dixon said: "That's pleasing news. It's always good to see parties coming to an accommodation and it saves the court the trouble of making a difficult judgment."

When the court action began last year, law firm Maurice Blackburn said the man was seeking damages for pain and suffering and compensation for medical costs associated with his injuries, including the care of his prosthetic eye.

Lawyer Jane McDermott said at the time that the man was struck in the face with a rock while seeking refuge from the violence at the detention centre.

"He was hiding under his bed in his room to escape all the activities and violence going on that night," she said.

Ms McDermott said he was suffering from post-traumatic stress disorder, anxiety and depression, which was exacerbated by his detention.

In a statement provided by the law firm, RN said he had hidden in fear and heard people being dragged from their rooms during the riot.

"I was inside when the attack started. I went outside to see what was happening. When I went outside, I was hit in the right eye with a rock," the man said.

RN was moved to Manus Island detention centre in October last year after arriving at Christmas Island by boat. After sustaining the injuries, he was moved to the Villawood detention centre in Sydney and is now believed to be in community detention, where he can have better access to treatment.

Barrister Arushan Pillay, representing RN, told Justice Dixon documents were still being prepared and should be ready by February, when the matter will return to court.

<http://www.smh.com.au/federal-politics/political-news/government-security-firm-settle-manus-damages-claim-20151218-glqxot.html>

## **28. Christmas Island medical cannabis plan: community expresses concern**

Canberra Times  
January 2, 2016 - 11:30PM  
Nicole Hasham

Plans to grow Australia's first commercial crop of medical cannabis at Christmas Island have met resistance from some locals, who fear that islanders won't see the financial benefits and drugs may end up in the hands of local youths.

The cannabis proposal is the latest of a series of developments that have raised the ire of Christmas Island residents, who say the controversial detention centre damages efforts to grow the island's tourism industry and a reduction in the frequency of government-contracted planes means mail is frequently delayed.

Australian firm AusCann announced last month it will plant trial medical cannabis crops on Christmas Island, 2600 kilometres northwest of Perth.

Subject to changes in federal law and the success of the pilot, the company intends to plant the first commercial crop for the domestic market in late 2016, and is confident of winning support from locals.

But Christmas Island shire president Gordon Thomson said it was not yet known if cannabis was the best crop to advance agriculture on the island as the community seeks new economic drivers and a reduced reliance on imported food.

He said other residents fear cannabis will enter the island's illicit market and be used by young people.

"If medicinal marijuana is a crop that can be legally grown on Christmas Island then that needs to be approved by the community," Mr Thomson said.

A research partnership between Murdoch University and mining firm Christmas Island Phosphates has been examining whether crops can be established on exhausted mining leases on the island.

In a separate project, researchers have also studied the viability of growing cannabis on the island.

However, the broader research project is expected to take years and Mr Thomson said "we don't like the idea that AusCann would just walk in and start without any consultation".

Mr Thomson said should such a venture proceed, the community should retain control and derive financial benefits.

He warned that many in the community also feared "what could happen with the local young people being affected by the drug", adding that he did not personally hold those concerns.

AusCann managing director Elaine Darby said the company would not start a commercial crop "until we have full community consultation".

She said initial discussions had been held with a small number of people on the island, which involved a private landholder potentially growing the crops.

AusCann was investigating ways to deliver financial benefits back to the community, and the venture would employ locals and boost the economy, Ms Darby said, adding "we would be very, very conscious to ensure none of our product would enter the illicit market".

A spokesman for Territories Minister Paul Fletcher said the government has not received a formal proposal to grow medicinal cannabis on the island and "there is currently no legislation in place" to allow it.

"Should any such proposal be received, the government would consider the proposal on its merits, taking account of a range of factors," he said.

The government is expected to introduce a national scheme for the controlled growing of medicinal cannabis into Parliament in 2016.

<http://www.canberratimes.com.au/federal-politics/political-news/christmas-island-medical-cannabis-plan-community-expresses-concern-20151228-glw2nj.html>