

Australian government sends alleged rape victim back to detention on Nauru

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Prime Minister Malcolm Turnbull's government last week deployed a military aircraft to transport a young pregnant Somali asylum seeker back to detention at Australia's behest on the remote island of Nauru.

The Liberal-National government's actions underscore its ongoing determination, under Turnbull's new leadership, to enforce its "border protection" regime of barring access to all refugees arriving by boat and seeking protection in Australia.

To prevent an application by her lawyers for a Federal Court injunction, the government swiftly removed the 23-year-old, known by the pseudonym of Abyan, despite her stated wish to have an abortion in Australia because she had been raped in Nauru.

Abyan's plight only came to public attention at the beginning of the month after a video surfaced of another Somali woman, known as Najma, desperately calling police after allegedly being raped by two Nauruan men. The Australian Broadcasting Corporation's "7.30" program reported the story, pointing to widespread sexual abuse and assaults suffered by asylum seekers on the island.

Abyan, while not mentioned by name, was revealed to have been raped in early August. Then 11 weeks pregnant, Abyan had been unsuccessfully seeking an abortion in Australia. It is effectively impossible for her to have the termination in Nauru, where the law requires approval by at least two physicians and written consent from the father of the child.

Abyan's lawyer, George Newhouse, started an online petition calling for her urgent transportation to Australia to receive medical treatment. Initially, Turnbull's government refused to allow her to come to Australia. It claimed that "various supports" were available for alleged victims of sexual assault on Nauru and "all pregnant women receive professional and

coordinated health care."

Amid mounting public outrage, the government announced an apparent turnaround. Abyan was flown to Australia on October 11 and sent to Sydney's Villawood detention centre. Just five days later, however, she was whisked back to Nauru on an air force 737 jet, with the government asserting that, after medical consultations, she changed her mind about having an abortion.

Immigration and Border Protection Minister Peter Dutton declared: "The advice to me was absolutely clear: after the lady made the decision having received all of that consultation, the decision was then made to airlift the lady back to Nauru." Turnbull personally defended the decision, saying: "The information I have is that woman in question changed her mind about seeking a termination and was deemed fit to fly."

These claims have been strongly denied. Abyan's lawyer sent an email at 11:58 a.m. on October 16 to the Department of Immigration and Border Protection requesting that she not be removed from the country. "Our client has not decided to refuse a termination and you have completely misunderstood or misconstrued her position which is as set out in my letter ... of 14 October 2015," Newhouse wrote.

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

Newhouse asked to be allowed to speak to his client, as afforded by Australian law and the international Refugees Convention, before she was removed. One and a half hours later, Abyan was on a military plane.

Newhouse sought an injunction against her removal, but by the time a Federal Court judge heard the application, the government said Abyan was already

out of the country and therefore out of jurisdiction.

“The conduct of the Commonwealth in effectively abducting our client before we could speak to her or bring the matter to the court is astounding,” Newhouse commented. “[A]ll we have been asking for is what any woman in this country would expect, and that is to be fit for the operation, to be counselled about the sexual assault and the pregnancy and to understand the operation so that she could give fully informed consent.”

Neil Skill, the first assistant secretary of the immigration department, later told a Senate estimates hearing that Abyan was removed via a chartered jet rather than a commercial airline because of a “risk with regard to non-compliance and disrupting the airline.” This testimony pointed to the fraud of the government’s insistence that she freely and voluntarily decided to return to Nauru.

Back in Nauru, Abyan wrote a statement refuting the government’s claims. “I have never said thate [sic] I did not want a termination, I never saw a doctor,” she said. “I saw a nurse at a clinic but there was no counselling. I [also] saw a nurse at Villawood but there was no interpreter. I asked but was not allowed to talk with my lawyer, please help me.”

Abyan’s rapid removal was driven by clear political considerations. A day earlier, Dutton told parliament there was a “racket” involving asylum seekers on Nauru requesting medical care in Australia so their refugee claims could be processed in Australia. “The government’s then injuncted, we can’t send them back to Nauru and there are over 200 people in that category,” he said.

Dutton produced no evidence that any injunctions against removal from Australia lasted longer than the required medical treatment. His statement raised the obvious question of why there have been so many medical trips to Australia by Nauru detainees. The only possible conclusion is that the Australian government is incarcerating people on an island without adequate medical facilities, as part of its policy of deterring refugees from trying to reach Australia.

This thwarting of a court injunction came one week after the government’s latest attempt to block a High Court challenge to the legality of the “offshore processing” of refugees. It also followed a decision by staff at Melbourne’s Royal Children’s Hospital to

refuse, on medical grounds, to discharge refugee children back into detention.

In a bid to exploit popular outrage, Labor and the Greens expressed opposition to the government’s treatment of Abyan. Labor leader Bill Shorten said he was “deeply shocked” at the reports that Abyan could not receive medical treatment. Greens deputy leader Scott Ludlam described her forced return to Nauru as “horrific.”

Yet both these parties are responsible for the reopening of the Nauru camp in August 2012, when the Greens-backed Labor minority government of Julia Gillard reinstated the “Pacific Solution” of imprisoning asylum seekers on Nauru and Papua New Guinea’s Manus Island.



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