

# Australian government's \$70 million court settlement covers up crimes against refugees

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The Australian government has settled a class action lawsuit, agreeing to pay \$70 million to 1,905 current and former detainees in the Australian-run refugee prison camp on Manus Island, Papua New Guinea, as well as legal costs estimated at \$20 million.

The June 14 settlement sought to continue covering up the crimes committed against refugees by successive Australian governments. It prevented the case from going to trial, which would have involved a detailed exposure, in a televised open court, of the abuses at the detention centre.

Corporate media outlets described the outcome as possibly the largest human rights settlement in Australian history. Yet the payments will average only around \$36,000 for each claimant, a pitiful sum considering what they have suffered.

Moreover, many of them remain detained, and the entire system of illegally repelling asylum seekers or confining them indefinitely in remote hell holes in violation of international refugee law survives intact.

The settlement proceeds will be split according to how long each person spent at the centre, the injuries they received and whether they were present during particular events, such as a February 2014 attack by soldiers and security guards on prisoners protesting inside the camp in which one detainee Reza Barati, was killed and 77 others injured.

The case was taken to the Supreme Court of Victoria by the law firm Slater and Gordon, on behalf of all persons who were imprisoned on Manus Island between 21 November 2012 and 12 May 2016.

Slater and Gordon class action group leader Rory Walsh acknowledged some detainees would be displeased by the settlement, but said they could petition the court if they wished to continue with a separate case.

Sudanese asylum seeker Abdul Aziz Muhamat told Australian Associated Press that detainees were considering rejecting the settlement. "People are saying 'we've actually been in this place for four years and we have got physical damage and mental damage and this small amount of money won't do anything to help us'."

These abuses are a deliberate bipartisan policy, designed to deter or prevent refugees from seeking protection in Australia.

The Manus Island facility was first opened, together with the equally brutal camp on the Pacific island of Nauru, more than 15 years ago by the Howard Liberal-National government as part of its "Pacific Solution" to stop asylum seekers, fleeing wars and persecution, reaching Australia. In 2012, the camps were reopened by the Greens-backed Labor government of Julia Gillard, and the current Liberal-National government has maintained them since 2013.

The lawsuit was directed at the Commonwealth of Australia, as well as G4S and Transfield (now Broadspectrum), which hold government contracts to operate the detention centre. The main plaintiff was Majid Karami Kamasae, a refugee from Iran who suffered severe pain and irritation to his skin from pre-existing burns while forcibly imprisoned for 11 months on Manus Island, after his boat was seized by the Australian Navy in August 2013.

According to Richard Ackland, writing in the *Guardian*, Slater and Gordon lawyers appeared in court more than 50 times before the settlement was agreed, opposing government moves to shut the case down or exclude evidence. At every stage, the government sought to maintain secrecy over the maltreatment and denial of basic rights to the detainees.

There were repeated challenges claiming Public

Interest Immunity, seeking to block testimony or evidence that would supposedly endanger national security or the “public interest.”

The plaintiffs’ lawyers also confronted the Border Force Act 2015, passed with bipartisan support. The Act made it illegal, punishable by up to two years’ imprisonment, for anyone, including health care professionals who worked at the centre, to publicly reveal the conditions suffered by the asylum seekers.

Transfield/Broadspectrum followed lockstep with the government’s secrecy, requiring all employees to sign confidentiality agreements. In the preliminary rounds of the pre-trial proceedings, orders had to be obtained to permit witnesses to testify without being prosecuted.

In April, the trial judge ruled that the case could be live-streamed internationally. The government vehemently opposed the ruling and demanded that any broadcast be confined to a secure channel and only made available to a student law class.

Slater and Gordon reportedly conducted over 200 witness interviews and gathered more than 200,000 documents. Some 70 witnesses were willing to testify, despite confidentiality concerns.

The final 166-page Statement of Claim was full of damning allegations about neglect, inadequate shelter and accommodation, poor quality food, kitchens with rats running around, filthy toilets, squalid and overcrowded conditions, oppressive heat and humidity, inadequate medical and healthcare, and physical and psychological injuries.

Detainees were not issued with basic personal supplies, including shoes, soap or even toilet paper. They could not obtain any medication or contact the ill-equipped medical centre without written permission, which would normally take two to three days, regardless of the severity of the situation.

Guards used humiliation tactics, involving physical and verbal violence. This included sexual harassment and threats of solitary confinement.

The statement also asserted false imprisonment since the Papua New Guinea Supreme Court last year ruled that the detention was unconstitutional (see: “PNG court declares Australian refugee detention camp illegal”).

The statement established that Australia controlled the centre’s operations and was therefore liable for the brutality inflicted on the asylum seekers. All

construction and maintenance of the centre, management of detainees and restrictions on movement in and around the centre were funded by Australia and “implemented by Commonwealth officers, or subject to the direction or approval of Commonwealth officers.”

This further exposes the myth pedalled by the government that PNG, not Australia, is responsible for the operations of the centre.

Immigration and Border Protection Minister Peter Dutton defiantly insisted the settlement was “not an admission of liability in any regard.” Dutton instead claimed it was a “prudent” decision to minimise the government’s costs.

The Labor Party’s immigration spokesman Shayne Neumann declined to comment, effectively backing the decision, in line with Labor’s ongoing support for indefinite offshore imprisonment of refugees.

The Greens sought to use the settlement to hide their political responsibility for the reopening of the Manus and Nauru camps in 2012 by the minority Labor government, which depended on the Greens’ parliamentary votes to stay in office.

Greens’ immigration spokesman Senator Nick McKim declared that “by accepting this settlement,” Dutton and the Liberal Party “take responsibility” for the atrocities at the centre. In reality, both by propping up the previous Labor government and by supporting the underlying framework of refugee and immigration restrictions, the Greens are equally culpable.

The court settlement underscores the lengths to which Australian governments will go to hide their crimes against asylum seekers. While Australia is on the frontline of US-instigated predatory wars in the Middle East, which have created the greatest refugee crisis since World War II, it is overseeing the systematic torture and illegal imprisonment of those fleeing for their lives.



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