The Australian government this week agreed to what could be the largest human rights payout in the country's legal history. A class action in the Supreme Court of Victoria on behalf of 1905 asylum seekers and refugees held at the Manus Island detention centre from November 2012 to December 2014 was resolved, on the eve of the hearing, for a reported $70 million.

This payment (on average nearly $37,000 a detainee, though the amounts paid to each individual will differ) is to compensate the detainees for physical and mental injury caused to them by the government's negligent failure to provide clean and safe water and food, shelter that would protect them from heat, rain and insects, essential personal items such as clothing, shoes and toiletries, adequate and hygienic medical and dental facilities, hygienic bathing and toilet facilities, and protection from violence and assault.

The period covered by the settlement includes the riots that occurred on Manus in February 2014, during which more than 70 detainees were seriously injured and Reza Barati was murdered by a guard and a Salvation Army worker. We do not know whether Reza's family will receive a share of the settlement.

Nor do we know about Hamid Khazaie, who died in August 2014 due to medical negligence after he cut his foot on Manus and contracted septicemia. Four other men have died on Manus and Nauru while under the care of the Australian government.

Of course, Immigration Minister Peter Dutton was quick to point out that the $70 million is paid "without admissions" in order to avoid the cost of a trial. But we know that can't be the real reason. Even at the expected trial length of 25 weeks, that would amount to legal costs of nearly $3 million a week, roughly 10 to 20 times the cost of running the most complex legal case. If that's what they are spending on legal fees, there needs to be an immediate inquiry into government extravagance.

No, the real reason for settling is that the government has taken extreme measures to maintain secrecy about what goes on inside these offshore hellholes, and it didn't want their dirty secrets exposed by evidence in the Supreme Court of Victoria.

We know much about the conditions at Manus and its sister centre in Nauru already. They have been exposed repeatedly in the government's own Moss report, the Australian Human Rights Commission's Forgotten Children report, the 2000 leaked "Nauru files", numerous reports by Amnesty, Human Rights Watch and the UNHCR, and in our film, Chasing Asylum. We know about the murders, the deaths caused by inadequate medical attention, the rapes, the bashings, the suicides, the illnesses, and the record levels of self-harm that hang thickly in the air, dominating these places.

But this case was to be something different. For the first time, an Australian court had lifted the
secrecy provisions of the Border Force Act that would otherwise impose prison sentences of up to two years for anyone who speaks out about these places. This allowed some 71 witnesses to come forward - including guards, doctors and welfare workers - and tell the truth, without the threat of imprisonment, about what they saw and what they did. The hearing, scheduled to run for six months, would have been a kind of royal commission into Manus and the failures of the government's detention policies, with painful stories being told - not by politicians or refugee "activists" but by professionals - and reported daily in our newspapers and on our television screens.

It was the last thing the government wanted, so it brought the proceedings to an end.

This should come as no surprise; we have been here before. In May 2016 the Federal Court of Australia found, on a preliminary basis, that the Australian government had breached its duty of care by refusing to provide a safe and legal abortion to a woman who had become pregnant after being raped at the detention centre in Nauru. Why only a preliminary finding? Because after it was made the government quickly moved to settle that case, too, fearing any final ruling that it had a duty to take care of the people it sends to offshore detention centres. Remember, too, that back in 2014 it denied permission to its own Human Rights Commission to visit the centre in Nauru.

If the government believed that its centres were operating satisfactorily it would not take such extreme steps to prevent scrutiny. If there was nothing to hide, nothing to cause national embarrassment, nothing that might affect its electoral prospects, it would happily permit these investigations to go ahead. Minister Dutton might want to insist that yesterday's settlement was "without admissions", but his conduct and that of his government for the past three years say otherwise.

For the individual claimants, though having been denied their chance for a full recounting of what they have endured, the settlement is unquestionably a positive outcome. The same must now be offered to detainees in Nauru. The centres on Manus and Nauru, having been shown to be so harmful to so many people, must be shut down, and anyone who has been found to be a refugee (believed to be about 80 per cent of detainees) but is not accepted into the US under the resettlement deal must be given the chance to settle, in safety at last, in Australia. And this all must happen quickly. The refugees on Manus and Nauru have now been held there for almost four years.

Source Citation

Gale Document Number: GALE|A495608625