
Inquest begins into Shocking Death on Nauru

Brisbane, Australia – 24-Feb-19

Doorstop: A statement will be given by Adjunct Professor George Newhouse – Principal Solicitor at the National Justice Project, the lawyers representing Omid’s family:

When: Monday 25 February

Time: 8.45am

Where: Outside the Brisbane Coroners Court, 363 George Street, Brisbane

As debate rages about the medical transfer of desperately ill people in offshore detention, the Queensland State Coroner will commence the inquest into the death of **Omid Masoumali** on Monday 25 February 2019. Omid died in Brisbane on 11 May 2016 following an emergency medivac from Nauru but only after he had self-immolated.

Omid had been effectively imprisoned on the island for three years at the time of his death. At this inquest, his family want to know the conditions that he was living in and how his mental health descended to the point where he set himself alight.

They also want to understand whether there were clinical errors, communication breakdowns or poor handovers that contributed to Omid’s death and whether there was a delay in his medical evacuation from Nauru to Australia. A video is available that records aspects of the standard of care provided to Omid at Nauru Hospital and it can be found at the following url:

<https://www.dailymail.co.uk/news/article-3568932/Nauru-asylum-seeker-set-fire-protest-Australia-s-detention-laws-went-10-hours-given-pain-relief-burns.html>

Adj Professor Newhouse, said:

“The death of Omid Masoumali did not occur in isolation. It occurred in a context of widely known cases of medical failure, neglect and/or delayed interventions such as medical evacuation to Australian hospitals.”

“Australian of the Year Dr Patrick McGorry is just one expert psychiatrist who has described the hopeless and heartless conditions of offshore detention as contributing to deaths. He said that Offshore detention is, essentially, a ‘mental illness factory’.

“There have been 12 asylum seeker deaths on Nauru and Manus Island since the Rudd Government reopened offshore processing and there will be more unless the government learn the lessons from each of these deaths and provide asylum seekers with the health care they urgently require.”

*“We act for the families of at least four other men who died offshore and their deaths require urgent investigation. In line with the state Coroner’s recommendations in the **Hamid Khazaei (AKA Kehazaei)** case in September 2014 (see attached), we call on the Australian Government to establish and fund a statutory framework to ensure the independent judicial investigation of the deaths of ALL asylum seekers transferred by the Australian Government to regional processing countries. This may require that deceased persons are transferred back to Australia to ensure appropriate post-mortem examinations can be carried out. Amendments to contractual arrangements to require service providers to co-operate with such investigations must also be required.*

“These cases all warrant full independent investigations where none has been offered”, said Adj Professor Newhouse.

Faysal Ishak Ahmed – died Manus 24 December 2016

Faysal’s death was attributed to a sudden seizure and not to the ongoing collapses, heart pain, stomach pain, high blood pressure, swollen limbs and headaches of which he had regularly complained to medical officers. Despite letters from the patient, his complaints all went unacknowledged, undiagnosed and untreated for over six months.

Faysal’s medical evacuation from Manus was delayed more than 12 hours by what Senator Pratt described as “convoluted processes” within the Department of Immigration.

No inquest or judicial inquiry into his death has ever been undertaken.

Hamed Shamshiripour - died Manus 7 August 2017

It is clear that the Australian government knew all about Hamed’s isolation and very poor mental state well before he died: even the Minister himself is likely to have known about it long before his death in 2017. No inquest or judicial inquiry into his death has been undertaken.

Rakib Khan - died Nauru 11 May 2016

Rakib Khan died on Nauru in suspicious circumstances in May 2016. A forensic pathologist from Australia could not determine the cause of his death after he presented several times to RON Hospital. Despite repeated demands Rakib’s death has not been investigated on Nauru or in Australia. His family believe that the facts of Rakib’s death are being hidden from them and the Australian people.

ABOUT THE NATIONAL JUSTICE PROJECT

The National Justice Project is a not for profit legal service. We use the law and education to fight systemic prejudice and we combine strategic legal action with effective advocacy to advance human rights and social justice in Australia.

For further information please visit our website – www.justice.org.au

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Principal Solicitor National Justice Project

ANNEXURE: Qld Coroner's recommendation regarding the Independent investigation of deaths from the Inquest into the death of Hamed Khazaei.

534. As noted above under the discussion of coronial jurisdiction, the death of an asylum seeker transferred from Australia to a regional processing country would not ordinarily be the subject of an inquest. This inquest only proceeded because Mr Khazaei was in custody when he died in Queensland after he was transferred to Australia from the PIH. In the absence of the considerable co-operation I received from IHMS and International SOS it would not have been possible to investigate the care received by Mr Khazaei in PNG, as I would have been unable to require overseas witnesses to give evidence at the inquest. The withdrawal of the PIH from the inquest demonstrated these challenges.

535. All Australian governments have accepted that deaths in custody should be the subject of a mandatory inquest. Consistent with the acceptance of the RCIADIC recommendations, this reflects the responsibility of the State to protect and care for people it incarcerates, the vulnerability of people deprived of the ability to care for themselves, the need to ensure the natural suspicion of the deceased's family is allayed and public confidence in state institutions is maintained.

536. Similarly, the Law Council of Australia's June 2013 Policy Statement on Principles Applying to the Detention of Asylum Seekers includes the following principle:

12. Policy and practice in the detention of asylum seekers should be accountable, transparent, and subject to independent monitoring.

(d) Whenever the death or disappearance of a person occurs during his or her detention, an inquiry into the cause of death or disappearance should be held by an independent authority, with the findings to be made available upon request, unless doing so would jeopardize an ongoing criminal investigation. Similar inquiries should be conducted into credible allegations of acts of torture and other cruel, inhuman treatment or punishment committed in detention. When such inquiries are conducted, the State should fund legal representation of interested persons if they are unable to do so.

537. Having regard to the accepted principle that the deaths of persons held in detention should be subject to an independent investigation, I make the following recommendation.

Recommendation

8. I recommend that the Commonwealth Attorney-General establish and fund a statutory framework to ensure the independent judicial investigation of the deaths of asylum seekers transferred by the Australian Government to regional processing countries. This may require that deceased persons are transferred back to Australia to ensure appropriate post-mortem examinations can be carried out. Amendments to contractual arrangements to require service providers to co-operate with such investigations would also be required.