

BREAKING: Dutton Defeated in High Court by Refugees **High Court Refuses to be Treated as “Post Box” by the Minister**

Refugees who were detained by the government in Nauru and Papua New Guinea have secured a major legal victory in the High Court of Australia against the Minister for Home Affairs, **Peter Dutton**.

The High Court of Australia has ruled that the Federal Court has the power to hear the cases of over 50 refugees and asylum seekers, after the Commonwealth appealed to the Court in September 2019 to dispute the jurisdiction of the Federal Court.

The Minister claimed that [Section 494AB](#) of the *Migration Act 1958* (Cth) prevents the claimants from taking action for negligence and breaches of duty of care while held in the government’s custody.

The High Court, however, has ruled in paragraph 4:

“s 494AB is not a law that takes away the jurisdiction of those courts (or that of this Court) to hear and determine proceedings of the kinds described in s 494AB(1).”

In Paragraph 27, the High Court held:

“That conclusion is grounded in the established principle that “a law of the Commonwealth is not to be interpreted as withdrawing or limiting a conferral of jurisdiction unless the implication appears clearly and unmistakably.”

In Paragraph 34, the High Court said:

“So construing s 494AB as a statutory bar avoids the High Court being made a post box for the commencement of proceedings destined to be remitted to another court.

“It avoids diverting the High Court away from its central work as the apex court of the Australian judicial system. And, further, it avoids administrative inconveniences for the courts, the profession and litigants in circumstances where the Commonwealth could not identify any purpose or utility in requiring the proceedings to be filed in the High Court only for them to be remitted.”

[The full court decision can be found here.](#)

George Newhouse, Principal Solicitor and Director of the National Justice Project, has said:

“We’ve argued successfully at every stage that the Federal Court has the jurisdiction to hear these claims. Today, the High Court agreed.”

“This decision vindicates the right of our clients to seek justice for the cruel and inhumane treatment that they suffered.

“In an act of legal bastardry, the government tried to slow down the course of justice, and they failed.”

“The decision vindicates our clients. By taking legal action against the government, our clients hope to access the long-term medical and psychological care that they need.”

“Many of our clients are young children who have suffered so much from the Minister’s cruel policies. These children suffer from constant nightmares, they struggle to interact with other children, and they experience suicidal thoughts. Some of them have self-harmed or attempted to take their own lives.”

“Now, we will fight in the Federal Court to make the government accountable for what it has done to these children.”

George Newhouse (Principal Solicitor and Director of the National Justice Project) is available for interviews.

To arrange interviews, please contact:

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Above: Community sentiment has grown in favour of the rights of people seeking asylum. The High Court appeal fought by the National Justice Project has been funded entirely by community contributions.



Above: Lawyers representing nearly 50 asylum seekers – Naomi Lai, Emma Hearne, Anna Talbot, Erika Chaparian, and Deema Dermelkonian – went to the Hight Court in March 2019 to fight the government's appeal.